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Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, who daily showers us with blessings, open our eyes to the generosity of Your grace. Help us to see in the beauty and bounty that surrounds us the movement of Your loving providence. Remind our lawmakers of their responsibility to use Your blessings to make a better Nation and world, and that to whom much is given, much is expected. Lord, give them the wisdom to relinquish their control and to ask You to take charge, guiding their steps by Your power. Break the bonds of self-sufficiency by showing them what they can accomplish with Your supernatural strength.

We pray in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 22, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following leader remarks there will be a period for morning business until 12:30 p.m. today, with Senators being allowed during that period of time to speak for up to 10 minutes each. The majority will control the first 30 minutes, the Republicans will control the next hour, and then the majority will control the next 30 minutes, with the remaining time equally divided and controlled between the two leaders or their designees.

The Senate will recess at 12:30 until 2:15 for weekly caucus meetings.

Rollcall votes are still possible this afternoon.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to executive session to consider en bloc Executive Calendar Nos. 493, 494, 556, 581, 589, 590, 592, 647, 705, 722, 726, 747, 783, 784, 785, 786, 787, 788, 794, 799, 800, 801, 824 to and including 830, 836 to and including 842, 844 to and including 848, 880, 881, 882, 902, 904 to and including 907, 908, 916, 923 to and including 928, 930, 938, 939, 940, 941, 942, 943, 944, 952 and all nominations on the Secretary's desk in NOAA; that the nominations be confirmed en bloc, the motions to reconsider be laid on the table en bloc, that no further motions be in order, and any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL LABOR RELATIONS BOARD

Brian Hayes, of Massachusetts, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2012.

Mark Gaston Pearce, of New York, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2013.

EXECUTIVE OFFICE OF THE PRESIDENT

Benjamin B. Tucker, of New York, to be Deputy Director for State, Local, and Tribal Affairs, Office of National Drug Control Policy.

DEPARTMENT OF JUSTICE

John H. Laub, of the District of Columbia, to be Director of the National Institute of Justice.

AMTRAK BOARD OF DIRECTORS

Anthony R. Coscia, of New Jersey, to be a Director of the Amtrak Board of Directors for a term of five years.

Albert DiClemente, of Delaware, to be a Director of the Amtrak Board of Directors for the remainder of the term expiring July 26, 2011.

NATIONAL TRANSPORTATION SAFETY BOARD

Mark R. Rosekind, of California, to be a Member of the National Transportation

Safety Board for a term expiring December 31, 2014.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Jim R. Esquea, of New York, to be an Assistant Secretary of Health and Human Services, vice Vincent J. Ventimiglia, Jr.

DEPARTMENT OF JUSTICE

James P. Lynch, of the District of Columbia, to be Director of the Bureau of Justice Statistics, vice Jeffrey L. Sedgwick.

DEPARTMENT OF STATE

Judith Ann Stewart Stock, of Virginia, to be an Assistant Secretary of State (Educational and Cultural Affairs).

DEPARTMENT OF ENERGY

Patricia A. Hoffman, of Virginia, to be an Assistant Secretary of Energy (Electricity Delivery and Energy Reliability), vice Kevin M. Kolevar.

NATIONAL COUNCIL ON DISABILITY

Ari Ne'eman, of Maryland, to be a Member of the National Council on Disability for a term expiring September 17, 2012, vice Robert Davila.

DEPARTMENT OF TRANSPORTATION

David T. Matsuda, of the District of Columbia, to be Administrator of the Maritime Administration.

MARINE MAMMAL COMMISSION

Michael F. Tillman, of California, to be a Member of the Marine Mammal Commission for a term expiring May 13, 2011, vice John Elliott Reynolds, III.

Daryl J. Boness, of Maine, to be a Member of the Marine Mammal Commission for a term expiring May 13, 2010.

Daryl J. Boness, of Maine, to be a Member of the Marine Mammal Commission for a term expiring May 13, 2013.

NATIONAL TRANSPORTATION SAFETY BOARD

Earl F. Weener, of Oregon, to be a Member of the National Transportation Safety Board for the remainder of the term expiring December 31, 2010.

AMTRAK BOARD OF DIRECTORS

Jeffrey R. Moreland, of Texas, to be a Director of the Amtrak Board of Directors for a term of five years.

ENVIRONMENTAL PROTECTION AGENCY

Arthur Allen Elkins, Jr., of Maryland, to be Inspector General, Environmental Protection Agency.

PEACE CORPS

Carolyn Hessler Radelet, of the District of Columbia, to be Deputy Director of the Peace Corps.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Elizabeth L. Littlefield, of the District of Columbia, to be President of the Overseas Private Investment Corporation, vice Robert A. Mosbacher.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Lana Pollack, of Michigan, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Dana Katherine Bilyeu, of Nevada, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2011.

Michael D. Kennedy, of Georgia, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2010.

Michael D. Kennedy, of Georgia, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 2014.

SPECIAL PANEL ON APPEALS

Dennis P. Walsh, of Maryland, to be Chairman of the Special Panel on Appeals for a term of six years.

THE JUDICIARY

Milton C. Lee, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Jerry Stewart Byrd.

Todd E. Edelman, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Judith Anne Smith, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

DEPARTMENT OF EDUCATION

Eduardo M. Ochoa, of California, to be Assistant Secretary for Postsecondary Education, Department of Education.

DEPARTMENT OF LABOR

James L. Taylor, of Virginia, to be Chief Financial Officer, Department of Labor, vice Douglas W. Webster.

NATIONAL MUSEUM AND LIBRARY SERVICES BOARD

Robert Wedgeworth, of Illinois, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2013, vice Amy Owen.

Carla D. Hayden, of Illinois, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2014, vice Kevin Owen Starr.

John Coppola, of Florida, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2013, vice Gail Daly.

Winston Tabb, of Maryland, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2013, vice Beverly Allen.

Lawrence J. Pijeaux, Jr., of Alabama, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2014.

DEPARTMENT OF ENERGY

Donald L. Cook, of Washington, to be Deputy Administrator for Defense Programs, National Nuclear Security Administration.

DEPARTMENT OF DEFENSE

Sharon E. Burke, of Maryland, to be Director of Operational Energy Plans and Programs.

Katherine Hammack, of Arizona, to be an Assistant Secretary of the Army.

Michael J. McCord, of Virginia, to be Principal Deputy Under Secretary of Defense (Comptroller).

Elizabeth A. McGrath, of Virginia, to be Deputy Chief Management Officer of the Department of Defense.

DEPARTMENT OF ENERGY

Jeffrey A. Lane, of Virginia, to be an Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).

FEDERAL ENERGY REGULATORY COMMISSION

Cheryl A. LaFleur, of Massachusetts, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2014, vice Suedeen G. Kelly.

Philip D. Moeller, of Washington, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2015.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Michael James Warren, of the District of Columbia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2011.

NATIONAL BOARD FOR EDUCATION SCIENCES

Adam Gamoran, of Wisconsin, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2011.

Deborah Loewenberg Ball, of Michigan, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2012.

Margaret R. McLeod, of the District of Columbia, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2012, vice Elizabeth Ann Bryan.

Bridget Terry Long, of Massachusetts, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2012, vice Joseph K. Torgesen.

EXECUTIVE OFFICE OF THE PRESIDENT

David K. Mineta, of California, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sherry Glied, of New York, to be an Assistant Secretary of Health and Human Services, vice Benjamin Eric Sasse.

STATE JUSTICE INSTITUTE

Daniel J. Becker, of Utah, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2010.

James R. Hannah, of Arkansas, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2010.

Gayle A. Nachtigal, of Oregon, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2012.

John B. Nalbandian, of Kentucky, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2010.

Marsha J. Rabiteau, of Connecticut, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2010.

Hernán D. Vera, of California, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2012.

SMALL BUSINESS ADMINISTRATION

Marie Collins Johns, of the District of Columbia, to be Deputy Administrator of the Small Business Administration.

DEPARTMENT OF JUSTICE

Thomas Edward Delahanty II, of Maine, to be United States Attorney for the District of Maine for the term of four years.

Wendy J. Olson, of Idaho, to be United States Attorney for the District of Idaho for the term of four years.

James A. Lewis, of Illinois, to be United States Attorney for the Central District of Illinois for the term of four years.

Donald J. Cazayoux, Jr., of Louisiana, to be United States Attorney for the Middle District of Louisiana for the term of four years.

Henry Lee Whitehorn, Sr., of Louisiana, to be United States Marshal for the Western District of Louisiana for the term of four years.

Kevin Charles Harrison, of Louisiana, to be United States Marshal for the Middle District of Louisiana for the term of four years.

Charles Gillen Dunne, of New York, to be United States Marshal for the Eastern District of New York for the term of four years.

NATIONAL TRANSPORTATION SAFETY BOARD

Earl F. Weener, of Oregon, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2015.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PN1849 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (16) beginning DAVID A. SCORE, and ending DEMIAN A. BAILEY, which nominations were received by the Senate and appeared in the Congressional Record of June 8, 2010.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will resume legislative session.

NOMINATIONS

Mr. REID. Let me express my appreciation to our being able to work through some of these. There are quite a few left to go. The Secretary for the majority just indicated to me that there are some other names that will be cleared later today. So I appreciate this very much. This is going to be a step forward. These are all very important. This will allow these people to get their lives in order. There is no need to talk about why we did not have it done sooner. We did not. We have got it done now, and that is a step forward for the Senate and our country.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

NOMINATIONS

Mr. MCCONNELL. Madam President, I would say to my good friend, the majority leader, as he knows, this is an agreement we have been prepared to make since last month. I am glad we were able to finally work our way through it and get a significant number of these nominations confirmed.

NEW TAXES

Mr. MCCONNELL. Madam President, it is now official. Top Democrats on Capitol Hill are starting to signal their intention to raise taxes on the middle class. The House majority leader in a speech today warned that in order to do anything about the debt crisis Republicans have been speaking about on the Senate floor in recent weeks, President Obama will have no choice, no choice, but to break his campaign pledge of ''no new taxes'' for millions of American families.

That is the majority leader in the House of Representatives in a speech today, saying that the President will have no choice but to break his promise of no new taxes for millions of American families.

Respectfully, I think this is a tough argument for the Democratic leadership in the House that will not even take up the Senate's version of the so-called doc fix legislation for no apparent reason other than the fact that it does not increase the debt.

It is hard to imagine anyone taking advice on fiscal discipline from a party that has spent the last 2½ weeks arguing not about how to pay for the extenders bill that is on the floor or how to use this bill to cut the debt but about how much money to add to the debt in the process of passing it.

Here is another idea Democrats should consider, one that Americans have been proposing loudly and clearly: Stop spending money you do not have. Stop spending money you do not have. The American people do not think our problem is that the government taxes too little. Our problem is that the government taxes too much and that it spends too much and borrows too much. Until Democrats demonstrate even the slightest ability to restrain the recklessness with which they spend America's hard-earned tax dollars, the job creators and the workers of this country are not about to take them seriously on how to lower the national debt.

The American people should not be asked to pay the price for Democrats' recklessness through higher taxes. America faces a debt crisis. Democrats have done nothing whatsoever to show they understand that. Breaking a campaign pledge now will not help; cutting spending will.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first 30 minutes, the Republicans controlling the next 60 minutes, and the majority controlling the next 30 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Madam President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEFICIT SPENDING AND UNEMPLOYMENT

Mr. DURBIN. The minority leader, Senator MCCONNELL, is right. Deficits are important. So are facts. Let's mention a few facts on the floor of the Senate. When was the last time the U.S. Government ran a surplus? A surplus. Collected more money than it spent? Well, it happened to be in the last year of President Bill Clinton's administration. So when President George W. Bush was elected, President Clinton said: Welcome to Washington. Here is a $230 billion surplus, and if you follow the spending patterns we have laid out over the next 10 years, you will generate a $5 trillion surplus in the Treasury—$230 billion now, plan for a $5 trillion surplus. At that time the debt of America, the accumulated debt of America, from George Washington through Bill Clinton, all of the debt we had amassed, $5 trillion.

George W. Bush. Welcome to Washington. A surplus. A plan to increase the surplus. A plan to spend down the national debt. But what happened in 8 years of Republican rule, fiscally conservative Republican rule? I will tell you what happened. The national debt went from $5 trillion to $12 trillion.

How do you do that in 8 years? Well, you wage two wars that you do not pay for, and you give tax breaks to the wealthiest people in America, and you have a prescription drug plan that is not paid for as well under Republican Presidents.

The national debt from Bill Clinton, $5 trillion; to the end of President George W. Bush, $12 trillion, and a little gift that President George W. Bush left to President Barack Obama as he left office. No, he did not leave him the $230 billion that he was given as he came into the presidency. No, he handed off to President Obama a $1.3 trillion deficit. Welcome to Washington, President Obama. And when you take your hand off the Bible at the swearing in, let's mention too that the Bush economic policies have now cost us, that month, January, that month in 2009, 750,000 American jobs. Now we hear from the Republican side of the aisle these pious incantations about our budget deficit.

Well, it is a problem. But let's put the blame where it belongs. When the Republicans had their chance, they took a surplus and turned it into the biggest deficit in the history of the United States. When President Bush had his economic policies in place, we doubled the national debt. When President Bush left office, he left the economy in the worst recession we have had since the Great Depression.

Now come the Republicans and say: We need to cut spending. Well, let's go back and look at another lesson in history. This goes even further back—80 years, the worst economic situation in modern times in America, the Great Depression. I heard about it as a kid. But it was not as if my parents were giving me a history lesson, they were giving me a story about our family, how my mom and dad got married in 1928, had their first baby in 1929, and their second baby in 1931, and tried to raise a family in the Great Depression. Their lives were changed forever. Their view of the world changed forever. My

mom, an immigrant to this country, and my dad, from a farm family, never borrowed money, scared to death of debt, because they saw the Great Depression and they saw it destroy people. Franklin Roosevelt came in as President in those days. He came in in March of 1933. He said, we are going to change this. We are going to get America back on its feet. You have nothing to fear but fear itself. We are going to put people back to work. We are going to give them government jobs if we cannot find them jobs in the private sector. We are going to tell our farmers, you are going to survive because we are going to basically stand behind you through the tough years. Whether it is a drought or a flood, we are going to be around to help you get through to the next year. We are going to make sure that banks do not fail. We are going to inject government into this economy and get America back on its feet.

At that time the unemployment rate in America was 25 percent. When the New Deal got started, they brought it down 13 percent, cut it in half because of government investment in this economy. People went back to work. They left the long lines waiting for soup and bread and started earning some money. They built highways. They built bridges. They built stadiums. They built parts of America we still use today. It was an investment by the government in our economy to bring us out of the worst depression we had ever faced.

Then, after a few years what happened? Republican critics came forward and said, wait a minute. This is deficit spending. We are spending money we do not have. We have got to stop. And they prevailed, just as Senator MCCONNELL wants to prevail today. Hit the brakes. Stop spending. You know what happened? They prevailed with that argument. You know what happened with the unemployment rate? It went from 13 percent back to 19 percent, and the sick economy continued for years until the war came along, World War II, and we had a massive investment in our Nation to protect our Nation, to give our troops what they needed, and we put people back to work.

Now we are about to repeat history. The Republicans come to us now and say, we have got to stop putting money back into the economy. It creates deficit. Yes, it does. But if you do not get the 14 million unemployed Americans back to work, the deficit will get worse. They will not be paying taxes, they will be drawing on government services.

We want them back to work. And it means making sure we make investments in America that count—helping small businesses; tax credits and tax deductions for small businesses; credit for small businesses; government actively moving forward to give small businesses a chance to keep their employees and hire more.

That is what we believe in on the Democratic side of the aisle. The Republicans say: Oh, deficit spending. Stop. We cannot do that. Then what happens? The business fails. The jobs are lost. The people draw unemployment and, in desperation, wait for something to happen.

You know what the Republicans are up to now? Last week we asked them: Would you please extend unemployment benefits for these millions of Americans who are out of work. In my State the unemployment rate is 10.8 percent. It has been around that for several months now. Boone County, 16.6 percent; Pulaski County, way down south, 12 percent; western edge of our State, Hancock County, 11.8 percent; and in Clark County, in the southeastern end of our State, 13.7 percent. There are 717,000 people in Illinois officially unemployed.

The Republicans say: Cut off their unemployment benefits. That is what they voted for last Thursday. And 80,000 of those 717,000 unemployed will lose their unemployment benefits.

What happens to the unemployment check? It is the most quickly spent government check ever sent out. Desperate people out of work take that check and turn it into groceries and clothes and shoes and gas in the car and utility bills and rent and mortgage payments as quickly as they receive it. It is money right back into the economy. They want to cut it off because we have a deficit.

I understand this deficit. I am on the Deficit Commission, and I understand taking it seriously. But let's take seriously putting America back to work. This Republican approach of cutting the unemployment compensation for people who lost their jobs through no fault of their own is a strategy that failed in the 1930s and is going to fail us now.

We have to believe in America and a better day when people are back to work and this economy is moving forward. We will deal with this deficit with a strong economy, with Americans working, not by quaking and quivering and saying we cannot put money back into the hands of those who are out of work. That is one of the fundamentals in this government. It is the way we take this great free market system of ours, when it falls on hard times, and move it forward again.

All of the speeches we will hear from the other side of the aisle about deficits are going to overlook the obvious. Were it not for the failed economic policies of the Bush administration, we would not be where we are today. Were it not for the doubling of the national debt under the last Republican President, we would not be where we are today.

It seems that those on the other side of the aisle have, I guess, an extreme sensitivity to deficits when there is a Democratic President, and are oblivious to them when there is a Republican President. The American people know what the facts say. They know the history. I hope they do not embrace the Republican approach which will drive us further into unemployment and recession.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

KAGAN NOMINATION

Mr. CARDIN. Madam President, this Monday the Senate Judiciary Committee will begin the confirmation hearings for Elena Kagan to be an Associate Justice of the Supreme Court. These confirmation hearings will provide an opportunity to the public to see firsthand how important Supreme Court decisions are in their ordinary lives. There are many examples we could give, from schools to consumer issues to personal lives, privacy, religious protections, helping the environment, the workplace.

In recent years, by a sharply divided Court, they have reversed precedent and congressional intent and ruled on the side of big business over individual rights. This is judicial activism, not judicial restraint. I hope all my colleagues will agree that the next Supreme Court Justice should be on the side of individual Americans, following legal precedent and congressional intent.

I wish to give an example—I know my colleagues will give others—about workplace fairness in Ledbetter v. Goodyear Tire. Let me provide a little background. Lilly Ledbetter worked for 19 years at Goodyear Tire. During that period, she was paid $15,000 a year less than her male counterparts doing the same work. This type of discrimination is prohibited by congressional statute under the Civil Rights Act of 1964. Within that legislation, title VII was specifically enacted to protect American workers from undue discrimination, including gender discrimination. When Mrs. Ledbetter found out she was being discriminated against, she did the right thing: she brought a claim against her employer.

The only reason Mrs. Ledbetter knew she was being paid less than her male counterparts was because a colleague finally told her. This is not unusual. In fact, in most employment discrimination cases, employees are unaware of discrimination until an unexpected event occurs or undisclosed information finally comes to light.

Mrs. Ledbetter went to court, stated her claim, and won. After multiple appeals, the case reached the Supreme Court. The Supreme Court, by a 5-to-4 decision, denied her claim. The Court said Mrs. Ledbetter had to file her case within 180 days after the beginning of the discrimination, and since she did not do that, her claim was barred by the statute of limitations. This defies logic. How can a person bring a claim when they don't know they are being discriminated against? It makes no sense.

This decision appalled me and many of our colleagues. Whose side is the Supreme Court on? What happened to protecting American workers and not big business? What happened to following legal precedent? What happened to following congressional intent? What happened to judicial restraint from a majority of the Court that professes that is what they believe is right? If an employee is being discriminated against, there should be effective remedy. If they don't know they were discriminated against, it doesn't make the error any less wrong when they find out about it. The Court is clearly out of touch with the impact they have on everyday Americans.

This case is a perfect example of hurting female workers. As of 2009, women comprised 46.8 percent of the U.S. labor force. As of 2009, 66 million women were employed in the United States; 74 percent were employed full time; 26 percent, part time. Equal pay has been U.S. law for more than four decades. But on average, women today still make just 78 cents for every dollar made by a man in an equivalent position. Women of color are in an even worse position. The average earnings for African-American women were 68 percent of a male's earnings, while Latinos earn just 58 percent of a male's earnings. The Supreme Court ruled against precedent and actually made it more difficult for women to bridge this gap. That is not what we want from the Supreme Court of the United States. That is not what we want as far as the activism of the Supreme Court is concerned.

When the Court turned the law completely on its head and circumvented congressional intent, Congress stepped in. I am proud to say that my senior Senator, Ms. MIKULSKI, introduced the Lilly Ledbetter Equal Pay Act, which I cosponsored. This legislation had 54 Senate cosponsors and passed the Senate by a vote of 61 to 36. The House of Representatives passed the bill by a vote of 255 to 177. On January 29, 2009, President Obama signed his first bill into law, the Lilly Ledbetter Equal Pay Act.

Under our system of checks and balances, each branch of government has a responsibility to keep the other in check. But we all should be on the side of the American people and workers. As the Judiciary Committee and the Senate convene next week to consider the nomination of Elena Kagan, we need to remember whose side we are on. We need to remember that big business can and will fend for itself, but it is individuals who look to the Court and to Congress to uphold the law and the protections it delivers.

Elena Kagan will be the fourth woman to serve on the Nation's highest Court, and this will be the first time in history we will have three women serving on the Court at the same time. Elena Kagan's record as Solicitor General and her broad legal background give me confidence that she understands the appropriate role of the Supreme Court.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, let me thank the Senator from Maryland for his comments about the Ledbetter decision.

What we are gathering on the floor today to discuss is whether American corporations are getting something more than a fair shake from Republican appointees on the Supreme Court, whether there is a bit of a systemic lean in favor of corporate interests on the part of those judges to the point where we really now need to call that out because it is beyond what statistics could possibly justify.

Certainly, the Ledbetter decision helps prove that point. We have at a company a woman who does not know she is being discriminated against; that for the same work as her male colleagues, she is being paid less. She has no way to know that. She does not know that. The fact that she does not know that is held against her rather than against the company which discriminated against her. The company was able to get off scot-free for all those months and years of discrimination before she found out what they were doing to her. The law did not require that particular answer. As the dissenting Justices pointed out, it was, in fact, the wrong answer. But it certainly served the interests of corporations across America to limit their liability when they discriminate against their employees.

The case I wish to talk about is the Exxon decision where the Supreme Court threw out a jury verdict after the Exxon Valdez oilspill, a jury verdict for punitive damages in the amount of $5 billion. Sounds like a lot of money. It is a lot of money, but at the time, it was just 1 year of profits for Exxon.

Remember what they did in this case. They took this gigantic tanker, the Exxon Valdez, and they allowed the captain, a known alcoholic, to get on board drunk, to continue drinking heavily while on board, and to steer the Valdez aground in Prince William Sound, creating what was then, in 1989, the biggest oilspill in American history.

Prince William Sound is still recovering from that. Our colleagues from Alaska will tell us that one can still pick up rocks on the seashore and see the oil on the underside of the rocks. We all remember the images we first saw there—and are now seeing tragically echoed in the gulf—of birds, marine mammals covered in oil, poisoned by oil, dying on the shores and beaches or, if they can be found, being recovered by human volunteers who try to clean them up and save their lives. It was a very significant error by Exxon.

Everybody knows corporations are all about their bottom line. That is not me saying that; that is the law of corporations. They actually have a duty, a legal duty to their shareholders to maximize their economic self-interest. It is what they do. It is why they were set up. It makes them a very important economic engine for society. But it does mean we have to control that motivation through the law. One of the ways we control that motivation through the law is with punitive damages—punitive damages assessed through the jury.

Let me say a quick word about the jury. The jury is an American institution of government. It is mentioned three times in the Constitution and Bill of Rights. It is there for a reason. It is there for a very important reason. When de Tocqueville wrote ''Democracy in America,'' he wrote about the jury that it is ''an institution of the sovereignty of the people.'' He wrote that in a chapter whose heading was about protecting against the tyranny of the majority.

The Founding Fathers saw it that way because they saw corrupt colonial Governors. They saw legislatures that had panicked in that period between independence and the Constitution. Remember Thomas Jefferson talking about the Virginia Legislature, saying: We have turned out 1 tyrant, and now we have 270 tyrants—or whatever the number was—of the Virginia Assembly. They had to go back, and Madison had to rethink the balance of powers. They adopted what is now the American system of government. They had an experience that there needed to be a place where one could go to get a clean decision from a jury of one's peers. And it didn't matter who the Governor was, who the general assembly was, what the power structure was; there was some place in American Government where power did not count, where the powerful and the powerless had the same shot. That is why it is in the Constitution. That is why it is described as a mode of the sovereignty of the people.

When the Supreme Court takes away from the jury what seems to me to be a reasonable punitive damage assessment—if they had really been whacked for $5 billion, who knows what message that might have sent through the oil industry. Conceivably, it might have prevented the oilspill in the gulf if it really rattled their cages enough. But, no, it interfered with the predictability corporations want. So the Supreme Court threw out the $5 billion punitive damage assessment—just 1 year's profit for that company—and knocked it down 90 percent. They adopted a rule that it couldn't be more than one-to-one with damages. It is not in the Constitution. It is not statutory. They just decided that the interests of corporations in predictability were so important that paying back Alaskans for the damage done and putting a punitive assessment on top of it that would prevent this from happening again was less important. Predictability was more important; deterring misconduct

was less important. That is a value judgment. It is a value judgment these Justices bring to this Court.

Jeffrey Toobin is an authoritative writer about the Supreme Court. He studies it carefully. He tracks it carefully. Here is what he wrote last year about our Chief Justice:

In every major case since he became the nation's seventeenth Chief Justice, Roberts has sided with the prosecution over the defendant, the state over the condemned, the executive branch over the legislative, and the corporate defendant over the individual plaintiff. Even more than Scalia, who has embodied judicial conservatism during a generation of service on the Supreme Court, Roberts has served the interests and reflected the values of the contemporary Republican Party.

Remember, this is the one who, when being confirmed, said he was only going to call balls and strikes, as if that was even an apt metaphor. Well, it seems that the strike zone for individual plaintiffs is a lot smaller in this Court than the strike zone for the big corporations. I will pick out a part of the sentence:

In every major case since he became the Nation's seventeenth Chief Justice, Roberts has sided with the corporate defendant over the individual plaintiff.

That is as of May 25, 2009.

If you take a look at the decision that came down today in Rent-A-Center v. Jackson, an employee challenges a contract saying, Wait a minute. I should not have to be a party to that contract because the circumstances that caused me to enter into that contract were unconscionable. I should be protected from that contract because it was unconscionable to force me to sign it. The contract requires that you go and arbitrate instead of having access to—guess what—the jury.

The Supreme Court said the decision over whether it is unconscionable should go to the arbitrator. You wouldn't even be at the arbitrator if the contract weren't valid. It is topsy-turvy logic. But, once again, it reflects the fact that the strike zone for corporations is a lot bigger with the Republican appointees of this Court than the strike zone for regular people.

I see Senator FRANKEN from Minnesota here waiting to speak, and I will yield the floor so he may do so.

As we face this question of Elena Kagan's nomination to the Supreme Court, we need to be clear that when the opponents talk about rule of law, when they talk about not having activist judges, when they talk about making sure corporations get a fair shake, there is actually a little bit more going on here. There is a little bit more going on here, and what is going on here is that over and over and over again the Republican appointees to the U.S. Supreme Court, when they have the chance, will rule in favor of the corporation and against the individual defendant. It is not surprising, since the Republicans are the party of the corporations, that the judges they appoint want to help the corporations. We should not forget that fact as we look at a nominee who will hold the strike zone the same; who won't give that benefit any longer to the corporations that now, apparently, are beginning to feel they are entitled to at the U.S. Supreme Court.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. FRANKEN. Madam President, I couldn't agree more with my colleague from Rhode Island and his eloquent statement, as well as my colleague from Maryland. I think we are going to be hearing a lot about this Roberts Court as we head into and during the Kagan hearings.

I rise today to talk about Americans' basic right to have their day in court. The Supreme Court has always been a towering institution, both physically and metaphorically. Until recently, as visitors walked up the steep steps of the Supreme Court's front doors, they entered underneath a mantle inscribed ''Equal Justice Under Law.'' Now those bronze doors are closed to the public.

That may have been because of security concerns, but it is hard to imagine a better metaphor for what has been happening to our Court. The Roberts Court has consistently denied hard-working people their day in court, blocking them from their entrance to the courtroom.

Many of my colleagues remember me speaking on the Senate floor about Jamie Leigh Jones. As a 20-year-old, she went to Iraq as a contractor for KBR, then a Halliburton subsidy. She complained about sexual harassment almost immediately. She was put in a barracks with 400 men and a handful of women. When she complained to KBR, they not only ignored her, they mocked her. They told her, Oh, go spend the day in the spa. Four days later, she was drugged and brutally gang raped by her coworkers and then locked in a shipping container with no contact with the outside world.

What happened to Jamie Leigh in Iraq was bad enough, but because of the Supreme Court's decision in Circuit City Stores v. Adams, KBR had been able to force Jamie to sign an employment contract that required her to arbitrate all job disputes rather than bringing them to a court of law. So Jamie, now a teacher in a Christian school in Texas, was forced to spend the next 4 years fighting to get her day in court after being gang raped on the job. She has had two reconstructive surgeries since this happened. Let me say this again. She was brutally gang raped on the job and still had to fight to get her day in court.

I am proud the Senate passed my amendment to give victims such as Jamie Leigh Jones a chance for justice and I was proud to see it signed into law. But, sadly, we are about to see a lot more Jamie Leighs denied their day in court. Just yesterday, as Senator WHITEHOUSE noted, the Court erected yet another hurdle for people seeking justice in another 5–4 decision, this one called Rent-A-Center v. Jackson.

On one side of the courtroom in this case was Rent-A-Center, a corporation that runs over 3,000 furniture and electronics rent-to-own stores across North America, with 21,000 employees and hundreds of millions of dollars in annual profits. On the other side stood Antonio Jackson, an African-American account manager in Nevada who sought to bring a civil rights claim against his employer. Jackson claims that Rent-A-Center repeatedly passed him over for promotions and promoted non-African-American employees with less experience.

Although Jackson signed an employment contract agreeing to arbitrate all employment claims, he also knew the contract was unfair, so he challenged it in court. But yesterday the Supreme Court sided with Rent-A-Center, ruling that an arbitrator, not a court, should decide whether an arbitration clause is valid. Let me say that again. The arbitrator gets to decide whether an arbitration clause is valid. Let me repeat that. The arbitrator gets to decide whether the arbitration clause is valid. That is just one step away from letting the corporation itself decide whether a contract is fair.

In doing so, the Supreme Court made it even harder for ordinary people to protect their rights at work. Justice Stevens, not surprisingly, wrote the dissent. As he did in Gross, Stevens notes that the Supreme Court, yet again, decided this case along lines ''neither briefed by the parties nor relied upon by the Court of Appeals.'' In other words, the Supreme Court went out of its way to close those bronze doors—and keep them closed. Clearly, this is a ruling that Congress needs to fix, and I look forward to working with my colleagues to do so.

Sometimes it is easy to forget that the Supreme Court matters to average people—to our neighbors and our kids. Some have tried to convince us that Supreme Court rulings only matter if you want to burn a flag or sell pornography or commit some horrendous crime. But as Jamie Leigh Jones and Antonio Jackson show us, the Supreme Court is about much more than that. It is about whether you have a right to a workplace where you won't get raped and whether you can defend those rights in court before a jury afterwards. It is about whether corporations will continue to have inordinate power to control your life with their armies of lawyers and their contracts filled with fine print. It is about whether they can force you to sign away your rights in an unfair employment contract so you never see the inside of a courtroom. It is, quite frankly, about the kind of society we want to live in.

Next week, the Judiciary Committee will hold hearings on the nomination of Elena Kagan to the U.S. Supreme Court. Those hearings provide a good opportunity for us to examine the legacy of the Roberts Court and talk

about what it would mean to have a Court that instead cares about hard-working Americans.

Solicitor General Kagan is nominated to fill the seat currently occupied by Justice Stevens who wrote the impassioned dissent in yesterday's Rent-A-Center ruling. I hope General Kagan has learned from Justice Stevens and takes his words to heart. I look forward to questioning her during these hearings. I want to make sure she understands that Supreme Court cases impact all of our lives—and that she will be the kind of Justice who believes in equal justice under the law.

Thank you, Madam President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, how much time do I have?

The ACTING PRESIDENT pro tempore. The Republicans have 60 minutes, and individual Senators are limited to 10 minutes.

Mr. ALEXANDER. Would the Chair please let me know when 9 minutes have expired.

The ACTING PRESIDENT pro tempore. We will.

Mr. ALEXANDER. Thank you, Madam President.

ENERGY DEBATE

Mr. ALEXANDER. Madam President, last week the New York Times ran a story, and I ask unanimous consent to have it printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 18, 2010]

NET BENEFITS OF BIOMASS POWER UNDER SCRUTINY

(By Tom Zeller, Jr.)

GREENFIELD, MA.—Matthew Wolfe, an energy developer with plans to turn tree branches and other woody debris into electric power, sees himself as a positive force in the effort to wean his state off of planet-warming fossil fuels.

''It's way better than coal,'' Mr. Wolfe said, ''if you look at it over its life cycle.''

Not everyone agrees, as evidenced by lawn signs in this northwestern Massachusetts town reading ''Biomass? No Thanks.''

In fact, power generated by burning wood, plants and other organic material, which makes up 50 percent of all renewable energy produced in the United States, according to federal statistics, is facing increased scrutiny and opposition.

That, critics say, is because it is not as climate-friendly as once thought, and the pollution it causes in the short run may outweigh its long-term benefits.

The opposition to biomass power threatens its viability as a renewable energy source when the country is looking to diversify its energy portfolio, urged on by President Obama in an address to the nation Tuesday. It also underscores the difficult and complex choices state and local governments face in pursuing clean-energy goals.

Biomass proponents say it is a simple and proved renewable technology based on natural cycles. They acknowledge that burning wood and other organic matter releases carbon dioxide into the atmosphere just as coal does, but point out that trees and plants also absorb the gas. If done carefully, and without overharvesting, they say, the damage to the climate can be offset.

But opponents say achieving that sort of balance is almost impossible, and carbon-absorbing forests will ultimately be destroyed to feed a voracious biomass industry fueled inappropriately by clean-energy subsidies. They also argue that, like any incinerating operation, biomass plants generate all sorts of other pollution, including particulate matter. State and federal regulators are now puzzling over these arguments.

Last month, in outlining its plans to regulate greenhouse gases, the Environmental Protection Agency declined to exempt emissions from ''biogenic'' sources like biomass power plants. That dismayed the biomass and forest products industries, which typically describe biomass as ''carbon neutral.''

The agency said more deliberation was needed.

Meanwhile, plans for several biomass plants around the country have been dropped because of stiff community opposition.

In March, a $250 million biomass power project planned for Gretna, Fla., was abandoned after residents complained that it threatened air quality. Two planned plants in Indiana have faced similar grass-roots opposition.

In April, an association of family physicians in North Carolina told state regulators that biomass power plants there, like other plants and factories that pollute the air, could ''increase the risk of premature death, asthma, chronic bronchitis and heart disease.''

In Massachusetts, fierce opposition to a handful of projects in the western part of the state, including Mr. Wolfe's, prompted officials to order a moratorium on new permits last December, and to commission a scientific review of the environmental credentials of biomass power.

That study, released last week, concluded that, at least in Massachusetts, power plants using woody material as fuel would probably prove worse for the climate than existing coal plants over the next several decades. Plants that generate both heat and power, displacing not just coal but also oil and gas, could yield dividends faster, the report said. But in every case, the study found, much depends on what is burned, how it is burned, how forests are managed and how the industry is regulated.

Ian A. Bowles, the secretary of the Massachusetts Office of Energy and Environmental Affairs, said that biomass power and sustainable forest management were not mutually exclusive. But he also said that the logical conclusion from the study was that biomass plants that generated electricity alone probably should not be eligible for incentives for renewable energy.

''That would represent a significant change in policy,'' Mr. Bowles said.

The biomass industry argues that studies like the one in Massachusetts do not make a clear distinction between wood harvested specifically for energy production and the more common, and desirable, practice of burning wood and plant scraps left from agriculture and logging operations.

The Biomass Power Association, a trade group based in Maine, said in a statement last week that it was ''not aware of any facilities that use whole trees for energy.''

During a recent visit to an old gravel pit outside of town where he hopes to build his 47-megawatt Pioneer Renewable Energy project, Mr. Wolfe said the plant would be capable of generating heat and power, and would use only woody residues as a feedstock. ''It's really frustrating,'' he said. ''There's a tremendous deficit of trust that is really inhibiting things.''

In the United States, biomass power plants burn a variety of feedstocks, including rice hulls in Louisiana and sugar cane residues, called bagasse, in parts of Florida and Hawaii. A vast majority, though, some 90 percent, use woody residue as a feedstock, according to the Biomass Power Association. About 75 percent of biomass electricity comes from the paper and pulp companies, which collect their residues and burn them to generate power for themselves.

But more than 80 operations in 20 states are grid-connected and generate power for sale to local utilities and distribution to residential and commercial customers, a $1 billion industry, according to the association. The increasing availability of subsidies and tax incentives has put dozens of new projects in the development pipeline.

The problem with all this biomass, critics argue, is that wood can actually churn out more greenhouse gases than coal. New trees might well cancel that out, but they do not grow overnight. That means the low-carbon attributes of biomass are often realized too slowly to be particularly useful for combating climate change.

Supporters of the technology say those limitations can be overcome with tight regulation of what materials are burned and how they are harvested. ''The key question is the rate of use,'' said Ben Larson of the Union of Concerned Scientists, an environmental group based in Cambridge, Mass., that supports the sensible use of biomass power. ''We need to consider which sources are used, and how the land is taken care of over the long haul.''

But critics maintain that ''sustainable'' biomass power is an oxymoron, and that nowhere near enough residual material exists to feed a large-scale industry. Plant owners, they say, will inevitably be forced to seek out less beneficial fuels, including whole trees harvested from tracts of land that never would have been logged otherwise. Those trees, critics say, would do far more to absorb planet-warming gases if they were simply let alone.

''The fact is, you might get six or seven megawatts of power from residues in Massachusetts,'' said Chris Matera, the founder of Massachusetts Forest Watch. ''They're planning on building about 200 megawatts. So it's a red herring. It's not about burning waste wood. This is about burning trees.''

Whether or not that is true, biomass power is also coming under attack simply for the ordinary air pollution it produces. Web sites like No Biomass Burn, based in the Pacific Northwest, liken biomass emissions to cigarette smoke. Duff Badgley, the coordinator of the site, says a proposed plant in Mason County, Washington, would ''rain toxic pollutants'' on residents there. And the American Lung Association has asked Congress to exclude subsidies for biomass from any new energy bill, citing potentially ''severe impacts'' on health.

Nathaniel Greene, the director of renewable energy policy for the Natural Resources Defense Council, said that while such concerns were not unfounded, air pollution could be controlled. ''It involves technology that we're really good at,'' Mr. Greene said. For opponents like Mr. Matera, the tradeoffs are not worth it.

''We've got huge problems,'' Mr. Matera said. ''And there's no easy answer. But biomass doesn't do it. It's a false solution that has enormous impacts.''

Mr. Wolfe says that is shortsighted. Wind power and solar power are not ready to scale up technologically and economically, he said, particularly in this corner of Massachusetts. Biomass, by contrast, is proven and

available, and while it is far from perfect, he argued, it can play a small part in reducing reliance on fossil fuels.

''Is it carbon-neutral? Is it low-carbon? There's some variety of opinion,'' Mr. Wolfe said. ''But that's missing the forest for the trees. The question I ask is, What's the alternative?''

Mr. ALEXANDER. The above-referenced article is entitled ''Net Benefits of Biomass Power Under Scrutiny.'' It is about how the people of Massachusetts are starting to debate the idea that they are accomplishing anything by displacing coal with biomass to produce clean electricity. I am talking here about producing electricity, not biofuels which we use in our cars.

Biomass is essentially burning wood and other organic products in a sort of controlled bonfire to produce electricity. The argument for biomass goes like this: Wood is natural. Trees regrow. Burn them up today and more trees will grow tomorrow. Therefore, we won't run out of resources. Moreover, trees are carbon neutral. Burning wood may release carbon dioxide, but trees reabsorb carbon so we can benefit from this natural cycle by generating electricity. Therefore, we are not making climate problems any worse with biomass.

Indeed, biomass produces about 50 percent of our Nation's renewable electricity today, according to the New York Times, and by most of the definitions of renewable electricity that we use in proposals in the Senate. But we can't rely upon biomass to replace significant amounts of the fossil-based electricity we get today from coal. Biomass electricity has its place, and can be used to burn forest and other wood waste. In Tennessee we have a lot of pine trees. They need to be removed from the forest, and this is a good way to do that and make a little electricity. However, we cannot and we should not start cutting down and burning our forests to produce electricity. The loss of forest land is still one of the major ecological catastrophes in Africa, Asia, and South America. So are we, the most advanced country in the world, going to talk about going back to burning up our forests for energy? Many environmental advocates are now arguing that biomass should not even be considered to be ''renewable'' or ''carbon neutral'' because of the fact that burning wood releases greenhouse gases. While that is true, so does the natural process of decay, but the carbon is reabsorbed by the growth of new trees. Biomass can be, and should be, an important—albeit a small part—of our electricity portfolio by using excess forest material and industrial wood waste.

Unfortunately, the New York Times piece misses out on one of the most important concerns about biomass. Just like other renewable electricity sources, it cannot be the solution for our clean energy needs because of the problem of scale. We would have to continually forest an area 1½ times the size of the Great Smoky Mountains National Park to replace the electricity created by two standard coal plants or one standard nuclear reactor. Wood has only half the energy density of coal. That means, if nothing else, we have to do twice as much work in hauling it around. There is a utility in Georgia that is using wood to replace coal in a 100-megawatt powerplant. This utility has trucks running in there day and night hauling wood to keep the plant running, and that is only 100 megawatts—about one-tenth the size of one nuclear reactor. For the southeastern United States to meet a 12-percent renewable electricity standard, as called for in the Waxman-Markey energy climate bill, by using biomass alone, we would have to cut down more trees than the entire U.S. paper industry uses each year.

I think it is worth taking note of all this as we move toward the idea that renewable resources are the answer to our energy problems.

Tomorrow, there will be a group of my colleagues going to the White House to discuss with the President the issue of how to proceed on clean energy. My fear is that we may all be asked to put our differences aside and settle this issue by pushing through a ''renewable electricity standard'' that says all we have to do is choose a number—17 percent by 2020 or 25 percent by 2030—and before you know it, we will have all the energy we need from wind, the Sun, and from the Earth running our highly advanced technological country.

In fact, more than half of the States already have adopted some version of these renewable electricity standards, but they haven't accomplished much. New Jersey wants to close down a nuclear reactor and replace it with an offshore wind farm. It will have to build 50-story wind turbines along its entire 125-mile coast, and it will still need to have the nuclear plant or a natural gas plant or coal plant or some other plant to provide electricity when the wind doesn't blow, which is most of the time.

To meet its requirement of 33 percent renewable electricity by 2020, California has put up wind farms, developed its abundant geothermal resources, and siphoned methane from almost every landfill in the State, and it still only gets 12 percent of its electricity from renewables.

Last year, a Wall Street Journal article cited the California State Energy Commission's warning that the renewable requirement could begin causing reliability problems—that means that when you turn your light switch on, the light might not go on—and increase electricity rates by 2011, which is next year. California State agencies were warning that simply increasing the renewable requirement from 20 percent to 33 percent could cost $114 billion.

Mr. President, I ask unanimous consent to have printed in the RECORD the Wall Street Journal article from July 3, 2009.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 3, 2009]

STATE'S RENEWABLE-ENERGY FOCUS RISKS POWER SHORTAGES

(By Rebecca Smith)

California officials are beginning to worry that the state's focus on transitioning to renewable-energy sources could lead to power shortages in the near term.

The state has been so keen to develop renewables that relatively few conventional power generators, such as gas-fired plants, have been built lately. That risks a possible energy shortfall in certain places if the economy rebounds any time soon.

California's utilities are barreling ahead to try to meet a state mandate to garner 33% of their power from renewable sources by 2020, and some officials are concerned the effort might push up electricity prices and crimp supplies.

The state auditor warned this week that the electricity sector poses a ''high risk'' to the state economy. A staff report from the state energy commission also warns that California could find itself uncomfortably tight on power by 2011 if problems continue to pile up.

Utilities complain that the ambitious renewable-energy mandates, combined with tougher environmental regulations on conventional plants, are compromising their ability to deliver adequate power. ''Conflicting state policies are a problem,'' said Stuart Hemphill, senior vice president of procurement at Southern California Edison, a unit of Edison International of Rosemead, Calif.

The stresses being felt in California could be a harbinger of problems to come in other states. The federal Waxman-Markey climate-change bill, passed by the House of Representatives on June 26, would require states to obtain about 15% of their electricity from renewable sources by 2020. Currently, about 4% of U.S. electricity comes from renewables, excluding hydropower.

California's 33% renewable-energy target is so ambitious that it is likely to miss the goal by five years or more, energy officials now concur.

State energy agencies recently concluded it could cost $114 billion or more to meet the 33% mandate, more than double what it might have cost to achieve an earlier 20% requirement. Consumers will bear those costs, one way or another.

Agencies also identified problems with constructing sufficient transmission capacity to move renewable-based energy to cities.

Southern California Edison, which buys more renewable electricity than any other U.S. utility, has conducted seven solicitations for renewable-energy supplies since 2002 and inked 48 renewable energy contracts. Yet it is still only halfway toward its procurement goal. In 2008, 16% of its electricity was renewable in origin, but more than 60% of that came from geothermal plants—most of them built long before the current push for green power.

At the same time, new regulations are putting existing power plants under pressure. Last week, the state Water Resources Control Board issued a proposed policy that would clamp down on power plants that use something called ''once-through cooling,'' which sucks water out of the ocean and rivers and discharges massive amounts of warmed water, harming some aquatic life.

The policy would end the practice at 19 plants that produce as much as 15% of the

state's electricity. That has the California Energy Commission worried electricity shortages might arise if older, marginal plants are shut down before there is replacement power available.

Building conventional power units is notoriously tough in Southern California because of air-quality problems and difficulty getting air-emissions credits, which are essentially rights to spew specified amounts of pollutants.

Early this year, the local air agency, the South Coast Air Quality Management District, imposed a moratorium on issuing air credits from its ''bank'' that affected 10 power plants that were under development.

''It's too early to tell how the pieces will fit together, but all the agencies and utilities are talking,'' said Edison's Mr. Hemphill. ''Something has to be worked out.''

Mr. ALEXANDER. Mr. President, countries such as Denmark and Germany have done the same thing. Denmark, which is often cited for its wind power, has pushed its windmills up to 20 percent of its electrical capacity. That sounds good. Many people regard 20 percent as about the theoretical limit that wind power can supply to a total electric grid, even for a small country such as Denmark. Yet Denmark hasn't closed even one single coal plant as a result of all these new windmills. So it is still dependent on fossil fuels, and it has the most expensive electricity in Europe because of all of its renewable electricity. Meanwhile, France, which has gone to 80 percent nuclear power, has per capita carbon emissions 30 percent lower than those of Denmark, and it has so much cheap electricity that France is making $3 billion a year exporting its electricity—mostly from nuclear power—to other countries.

So what are we getting into when we say we are going to solve our energy problems by passing a law telling ourselves we have to get 15, 17, or 20 percent of our electricity from renewable sources, very narrowly defined, by 2020?

First, it is important to point out that 80 percent of the facilities built to satisfy State renewable standards have been windmills. So a renewable electricity standard is really a national windmill policy instead of a national energy policy. Wind turbines are easy to put up, especially in remote areas. We have built 35,000 megawatts in total wind energy capacity, which represents an increase of more than 100 percent in the past 3 years. But most wind turbines only generate electricity about 33 percent of the time. That is how often the wind blows. The best wind farms—the ones on the eastern and west coast mountaintops or on the windy plains of the Dakotas—operate a little more than 40 percent of the time. That means our 35,000 megawatts in windmill capacity only generates about 10,000 megawatts at best—the equivalent of ten standard nuclear reactors.

Moreover, the wind doesn't always blow when it is needed and often blows when it is not needed. The strongest winds are at night or during the fall and spring, which are periods of low demand, while the periods with the least wind are hot summer afternoons, when the electricity demand peaks. Wind and other renewables are not dependable in the terms that utilities need dependable electricity. The Tennessee Valley Authority, in the region where I live, says it can only count on the wind power it produces in Tennessee and even the wind power it buys from the Dakotas about 10 to 15 percent of the time when it is actually needed. That is also what has happened in Denmark. They have to give away almost half of their wind-generated electricity to Germany and Sweden at bargain prices because it comes at a time when it is not needed. The result has been that the Danes pay the highest electrical prices in Europe and still haven't achieved much reduction in carbon emissions.

Then there is the matter of subsidies. We hear a lot about oil subsidies in the Senate. I suggest that when we talk about big oil, we also talk about big wind. The U.S. taxpayers are already committed to spending $29 billion over the next 10 years to subsidize the investors, corporations, and the banks that have financed the big wind turbines, and they only produce 1.8 percent of our electricity. If we went to 20 percent of our electricity from wind in the United States, that would be $170 billion from American taxpayers.

Windmills are and can be said to be a big success compared to solar electricity at today's prices. California now has more solar electricity than any other State, and in March, the California Public Utilities Commission announced the opening of one of the largest photovoltaic stations in California—21 megawatts. Solar power makes more sense as a supplement to our power by offsetting some of our demand by placing solar panels on rooftops, not large-scale electricity plants. We all hope we can reduce the cost of solar power, which today costs four times as much as electricity produced from coal.

These are technologies we are counting on to solve our energy problems. I think we have to exercise some caution here. The assumption is that all we have to do is subsidize these technologies and get them up and running, and they will find their place in the market. That doesn't seem to be true. All of these technologies still have much to prove before they can shoulder a significant portion of our electricity. Biomass facilities need to be placed where they are most efficient and can be used as a supplement to low-cost reliable sources of electricity that already provide the large amounts of clean and reliable energy we need. We already have a proven technology in nuclear power that provides us with 20 percent of our electricity and 70 percent of our carbon-free electricity. We should focus on that.

As the President and our colleagues consider our clean energy future tomorrow and the things we agree on, we can agree to electrify half our cars and trucks, and we can agree to build nuclear plants for carbon-free electricity. We can certainly agree on doubling energy research and development to bring down the cost of solar power by a factor of 4 and to create a 500-mile battery for electric cars.

But we need to remember, as we think about the next 10, 20, or 30 years, the United States is not a desert island. We use 25 percent of all the energy in the world to produce about 25 percent of all the money, which we distribute among ourselves, 5 percent of the people in the world. We ought to keep that high standard of living. We need to remember we are not a desert island. Someday, solar, wind, and the Earth may be an important supplement to our energy needs, but for today, we are not going to power the United States on electricity produced by a windmill, a controlled bonfire, and a few solar panels.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I appreciate my colleague commenting about energy. There is a bipartisan energy bill that I hope the President discusses tomorrow. It came out of the Energy Committee on a bipartisan vote. It doesn't increase cap and trade.

I certainly agree with my colleague on nuclear power, although we have some disagreement about wind. We have some nice places in Kansas for wind energy generation. I talked with the operators of the Smoky Hills Wind Farm last week. It operates between 40 and 45 percent of the time—the highest operating unit in the world. This company is a global wind-producing company. It is a very nice operation. I am not saying you can power it all off of wind. I am a nuclear supporter myself.

I also believe we have nice places to do wind power and a nice generation capacity that is complementary to the rest of the energy grid in the United States. Kansas is the second windiest State in the country. There are many times I have been in Kansas and have wondered, who else could be windier? We have a lot of consistent wind. There are places we can produce wind power on a very advantageous basis for the rest of the country. It is my hope that we can have those on a complementary basis but that we don't do a cap-and-trade system; rather, that we go with the bipartisan bill that passed the Energy Committee.

TRIBUTE TO MANUTE BOL

Mr. BROWNBACK. Mr. President, I wish to speak about the untimely passing of a giant—a giant in the hearts of the Sudanese people but also a literal giant. At 7 foot 7 inches, Manute Bol was a hero in his native home of Sudan, not for the fact alone that he was a pro basketball player in the United States or that he killed a lion with a spear while working as a cow

herder—no, Manute was a hero because of his advocacy for his fellow countrymen, a true humanitarian.

Manute began his NBA career in Washington in 1985, when he was drafted in the second round by the Washington Bullets. That year, Manute set the NBA rookie record with a total of 397 blocks. He continued to break shot-blocking records throughout his career and is the only player in NBA history to block more shots than points scored.

Manute coined the idiom or the phrase ''my bad,'' which quickly became the standard for those players owning up to their own errors on the court. ''My bad.'' To own up to one's own mistakes is a true measure of one's character, and it is no surprise that Manute leaves this legacy to the NBA.

Manute had a gentle nature and unmistakable humor. He was also a Christian, and his faith guided his advocacy for his fellow Sudanese brothers and sisters.

Manute was the son of a Dinka tribal chief and was given the name ''Manute,'' which means ''special blessing.'' He was, indeed, special, and what made him special was not his height but his heart. Manute often returned to Sudan to visit refugee camps, and he subsequently created the Ring True Foundation to assist those less fortunate than himself.

Manute moved to Olathe, KS, in 2007 to be closer to his family and continue his advocacy for Sudan as a spokesman for a Kansas-based nonprofit, Sudan Sunrise, which raises money to build schools and churches in Sudan. In 2006, Manute participated in the Sudan Freedom Work, a 3-week march from the U.N. building in New York to the U.S. Capitol in Washington, DC. He was admitted to the United States as a religious refugee, and in his final years in Kansas, Manute was working on a project to have Christians and Muslims work together to build a school in his hometown of Turlie, Sudan.

The world needs more Manute Bols—individuals who dedicate their lives to others. Our thoughts and prayers go out to Manute's family, friends, and the people of Sudan.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I ask unanimous consent to engage in a colloquy with Dr. BARRASSO.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTHCARE

Mr. MCCAIN. Mr. President, as I understand it, it is about 90 days since the President signed the legislation known to some as ObamaCare and to others as the Medicare reform bill. But there have been some interesting developments in the intervening 90 days.

To quote the Speaker of the House, she said at the time, ''We have to pass the bill so that you can find out what's in it.'' We are finding out what is in it. Remarkable events have taken place, ranging from the implementation that means that more than half—51 percent—of all employees in 2013 will be in plans that aren't grandfathered, despite the President's comment that if you like your insurance policy, you can keep it. Nearly 7 in 10—69 percent employees, 80 percent of workers, and small businesses—would lose their current plan within 3 short years.

Mr. President, I would like for my friend, Dr. BARRASSO, to explain exactly how that happens. First, I would like to mention the issue du jour which, of course, is headlined on Politico this morning: ''Medicare Tussle Stymies Hill. Rift between Pelosi and Reid stands in the way of funding compromise.''

I think it is important to recognize the reason we did not do the so-called doc fix is because the majority did not want to do the doc fix, which means not implementing the 21-percent cut in reimbursement for doctors who treat Medicare patients. The reason we did not was because they had cooked the books on the cost of ObamaCare.

The fact is, they kept counting into the cost—in order to keep their commitment that it would cost less than $1 trillion—they kept counting in that there would be the 21-percent cut, a $281 billion difference over 10 years.

The AMA and all of those people who signed up with this bill are now saying: Why are you not doing the doc fix? We did the doc fix on Friday, I believe. It is now in the House, and we will probably do the doc fix. But why the delay? The delay is simply because they did not want to. On the floor of this Senate, they did not want to do the doc fix because of the budgetary impact on how they were selling this proposal to the American people.

I ask my colleague, Dr. BARRASSO, to comment on that point and also what we are finding out as to how many Americans are actually going to lose the insurance policy they have. By the way, there is also an article this morning in USA TODAY entitled ''Doctors limit new Medicare patients,'' which was also predicted by some of us.

One thing my friends on the other side of the aisle might have forgotten is we cannot force doctors—they have not enacted a law yet that forces doctors to see Medicare patients. Therefore, a number of doctors are voting with their fee in the respect that they are not enrolling new Medicare patients they would treat.

I ask my colleague, Dr. BARRASSO, if he would comment on the doc fix and also maybe a better explanation than I have been able to give as to why so many people face the loss of their health insurance policy between now and 2013.

Mr. BARRASSO. Mr. President, my colleague from Arizona is absolutely right. There is a front-page story in USA TODAY. I was reading it as I was coming back from Wyoming yesterday. In Wyoming over the weekend, I visited with a number of seniors on Medicare. I visited with some family physicians who take care of families in Wyoming. I practiced medicine for 25 years in Wyoming taking care of families and have lived under the Medicare rules and regulations.

Here it is: ''Doctors limit new Medicare patients. Surveys point to payment concerns.'' Doctors will tell you the biggest deadbeat when it comes to paying for health care is the Federal Government. It is Washington. More and more of my colleagues are opting out, as the Senator from Arizona said, from taking care of Medicare patients because what they get reimbursed is so limited that it does not keep up with the growing cost of liability insurance, the mandates on them in terms of the expenses of running a business, and they try to provide health care for all their employees.

Item after item, those costs go up. But what the government continues to pay for taking care of patients on Medicare, which is an expanding group of people, is shrinking.

Think about how Washington works and does not get it. Patients around the country on Medicare understand they are having a hard time finding a doctor. The Center for Medicare and Medicaid Services was quoted in yesterday's USA TODAY saying 97 percent of doctors accept Medicare. What is the reality? In North Carolina, since January 1, this article says 117 doctors have opted out of Medicare. In New York, since the beginning of the year, about 1,100 doctors have left Medicare. The president of the State of New York Medical Society is not taking new Medicare patients.

Mr. MCCAIN. As well as the Mayo Clinic.

Mr. BARRASSO. Mayo Clinic said: We cannot afford to keep our doors open if we are taking Medicare patients. Specifically in Arizona, where they have a wonderful clinic, the best care in the world in many ways in the sense that early on in the health care debate, President Obama said we should use the Mayo Clinic as a model of what works, they do not want to take Medicare patients. They do not want to take Medicaid patients. But this health care law is cramming 16 million more Americans on to Medicaid. What the President is proposing for the American people is something less than what he has previously said is the best in care.

One of the other promises the President made is, if you like the health care you have, you can keep it. As a matter of fact, he gave a speech about a year ago at the American Medical Association meeting:

> If you like your health care plan, you will be able to keep your health care plan. Period.

He went on to say:

> No one will take it away. Period. No matter what. Period.

Now the White House has come out with new rules and regulations about

who really will be able to keep their health care plans. In the analysis that has come out from the administration, over 100 pages—I had it on the Senate floor last week—what they have shown is, over the next few years more and more Americans who have health care right now through their jobs that they like, they understand, they know how to use—and as a doctor I have worked with these patients. I know what it means to them to have a health care plan they are comfortable with, that they understand, that they use, that all of the work has been done with the doctor's office, hospital, and the patient, they understand the whole thing. To have that change is very distressing for people. It is unsettling. But yet this government report out from the administration says within the next couple of years, for people who have their insurance through small business plans, almost four out of five of them may lose the coverage they have.

Mr. MCCAIN. May I ask, is that because of a minor change in the insurance policy they now have that then forces them out of the policy, even though there is a minor change? Maybe Dr. BARRASSO can give us some of those examples of how minor they are, how they basically force them out of the policy they have into the ''exchanges.'' Is that what happens?

Mr. BARRASSO. I agree with my colleague completely. What is happening is any sort of a change to a policy, whether they change the deductible, change the copay or any of those things, then that policy is disallowed as something you can keep.

Mr. MCCAIN. Some of those changes would simply be driven by pure economics and the escalating cost of health care on which clearly this legislation has no effect.

Mr. BARRASSO. Let's say you change your job. Let's say you move from one employment situation to another. You may change your insurance. Most people do because most people get their insurance through their work. We will have a situation where over the next couple of years, a promise that the President made to the American people—another promise that the President made to the American people will be broken.

We have not just seen it with regular insurance. My colleague from Arizona is in a State with many people who are seniors, a number of them on Medicare Advantage, a special program that speaks specifically to preventive care, coordinated care. People signed up for Medicare Advantage because there are advantages to being on Medicare Advantage. Yet this health care law that was crammed through this Senate is going to cut massively from Medicare Advantage.

One out of four people on Medicare is on Medicare Advantage, and they know why they have signed up for it. It is because of the advantages to them.

Mr. MCCAIN. May I ask one more question of my friend? This is kind of a hometown issue, but 330,000 Arizona citizens who are enrolled in Medicare, who paid into Medicare all their working lives and have enrolled in this Medicare Advantage program which gives them choices are now going to have that severely impaired or eliminated. How does that happen? How is it when a program is offered to people who have paid into the system all their lives and they have chosen that Medicare Advantage program, and now it is going to be taken away from them. How does that work?

Mr. BARRASSO. It works when a Senate and a House of Representatives and a President think they know more than the American people. They say: We know what is best for you. We don't care what you think. That is what has happened.

Mr. MCCAIN. They have pledged basically to dismantle the Medicare Advantage program?

Mr. BARRASSO. Cut the funding so people on Medicare Advantage—who like it, who like the preventive medicine activities of it—are going to lose those opportunities.

Just since 2003, the number of seniors on Medicare Advantage grew from a little over 4 million to 11 million. That is because the seniors talk to one another, and they know what the best deal is for them, for their money, and for their health.

The seniors I know in Wyoming who signed up for this program said they want to make sure they have a number of these preventive services. Once they lose this, they are going to lose preventive services. They will have to pay more. The cost for people will go up, in spite of the promise made by the President that he was going to get down the cost of care.

Experts who have looked at this said: No, I am sorry, it is not going to work that way.

Mr. MCCAIN. May I ask the Senator one more question. Did he have a chance to examine the $14 million—I believe it was $14 million, $18 million——

Mr. BARRASSO. The mailer.

Mr. MCCAIN. The mailer. I was trying to find a polite word—the mailer that was sent out to all Medicare enrollees and what conclusions he drew from that infomercial?

Mr. BARRASSO. To my colleague from Arizona, I did. I had a chance to look at that mailer sent out by the Secretary of Health and Human Services. I found it very misleading. Some have described it even as being a piece of propaganda.

The sad part is, it was paid for by the American taxpayers. The estimates for the cost have been $16 to $20 million of taxpayers' money to send out this piece of mail that essentially misleads, or tries to mislead—as my colleague from Arizona knows, the American people are too smart to be misled by this—it tries to mislead them into saying that this whole health care law is actually going to strengthen Medicare.

The seniors of this country clearly understand, as I know they do in Wyoming and Arizona, if you cut $500 billion—a $½ trillion—out of Medicare, not to save Medicare, not to save the program that is there for our seniors but to start a whole new government program, that is not going to improve Medicare. That is money seniors planned for, know it is in their system, and it is being taken from Medicare to start a whole new government program. It is not for them. It is not going to improve Medicare. It is not going to strengthen Medicare.

That is why from the beginning, to my colleague from Arizona, I said this bill, now the law for 90 days, is bad for patients, bad for payers—the American taxpayers who are going to end up stuck with the bill—and bad for the providers—the nurses and doctors who are trying to take care of these people.

Mr. MCCAIN. Mr. President, I thank Dr. BARRASSO for his leadership on this issue. Those who are interested in his Web site, which is titled ''Second Opinion,'' might be interested in gaining more information from that Web site. My colleagues might be interested in that.

I thank Dr. BARRASSO for his leadership on this issue, for his in depth knowledge of it. I noted the luncheon we had with the President of the United States. I applaud Dr. BARRASSO's attempts to inform the President on this issue. I am not sure how receptive the audience was to it, but what he had to say made a lot of sense to me.

I know Dr. BARRASSO shares my view that we are not going to quit on this issue. We are not going to quit on this issue. It is going to be repealed and replaced because we are not going to do this to the American people.

Still the overwhelming majority of the American people disapprove of this proposal. As the Speaker of the House said, we have to pass the bill so we can find out what is in it. As they are finding out what is in it, more and more Americans dislike it.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent that I be allowed to engage in a colloquy with my colleague from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

ILLEGAL IMMIGRATION

Mr. MCCAIN. Mr. President, there has been a lot of conversation about the issue of illegal immigration and the results of different meetings. I

know my colleague from Arizona wishes to discuss that aspect of the issue, but I take to the floor with my friend and leader from Arizona to discuss the overall issue of immigration in light of a meeting and a trip he and I had to the border on Saturday, where we visited with ranchers, with citizens, with Border Patrol, and where we had a thorough trip throughout the area. So we come to the floor to share our conclusions and concerns with our colleagues.

Let me begin by saying that unfortunately—or fortunately—the head of the Customs and Border Protection recently said that parts of Arizona were like a ''third country.'' You know, in some respects—in some respects—he may have been correct. Let me quote him. This is David Aguilar, the Acting Deputy Commissioner of U.S. Customs and Border Protection. He was quoted in the Arizona Republic as saying:

the border is not a fence or a line in the dirt but a broadly complex corridor. It is . . . a third country that joins Mexico and the United States.

A third country that joins Mexico and the United States is obviously not as secure as the United States of America. If my colleagues will look at this map here and see this area here, this is the sign that is posted as far away as 50 miles from the Arizona-Mexico border.

Danger. Public Warning. Travel Not Recommended. Active Drug and Human Smuggling Area. Visitors May Encounter Armed Criminals and Smuggling Vehicles Traveling at High Rates of Speed. Stay Away From Trash, Clothing, Backpacks and Abandoned Vehicles. If You See Suspicious Activity, Do Not Confront. Move Away and Call 911. BLM Encourages Visitors to Use Public Lands North of Interstate 8.

North of Interstate 8 is the area north of this shaded area. In other words, visitors are encouraged not to go south of the interstate, which is a huge part of the State of Arizona. That is the posted sign put up by the Federal Government.

Then the Secretary of Homeland Security says, ''The border is secure as ever.'' If the border is as secure as ever, then you have to draw the conclusion that it isn't secure, because otherwise you wouldn't have to be posting signs such as this 50 miles north of the border, if the border was secure. Our whole point is that we need to get the border secure. We don't see the necessity in the United States of America placing a sign such as that.

If we are doing fine on border security, why would it be necessary to put up a sign such as that all the way up to the interstate?

Here is another sign from our Park Service in the Coronado National Forest. This is in our national forest, from the Park Service.

Smuggling and/or Illegal Entry Is Common in This Area Due to the Proximity of the International Border.

If we had a secure border, why would we have to put up signs such as that? If we had made such great progress at that time the Secretary of Homeland Security was trumpeting this, why in the world would we have to put up signs such as that? That is the question.

I will let my colleague discuss the results of our visit, but I can tell you that the citizens residing in the southern part of our State do not feel secure. When you have 241,000 illegal immigrants apprehended last year, that means that, depending on who you talk to, it is nearly a million people apprehended in just that part of the border. When you have 1.2 million pounds of marijuana intercepted in the Tucson sector, it is not a secure border. When you have the violence—the incredible violence—that continues to rise on the other side of the border, you know it is just a matter of time before it spills onto our side of the border.

Unfortunately, just south of the Arizona-Sonora border resides the most vicious of all the drug cartels—the Sinaloa cartel—headed by Juan ''El Chapo'' Guzman, who walked out of a Mexican prison a few years ago and, unfortunately, this cartel has corrupted officials at very high levels.

I report to my colleagues that the people living in the southern part of the State of Arizona do not feel secure. They see signs such as this one, which I mentioned; and they see the destruction of our wildlife preserves; they see the in-home invasions. And, yes, our Border Patrol and the men and women who are serving in it are doing a magnificent job. We are proud of the job they are doing. But they do not have the assets in order to complete the job of securing our border.

Senator KYL and I have a 10-point plan that, if implemented, will do the job.

Mr. KYL. Mr. President, the stories we heard were human tragedies, and statistics don't tell the story adequately. Let me cite a few of the statistics and then ask my colleague to recount some of the heartrending stories that we heard from families in the area. When we talk about that, he can point to the extreme southeast corner of the State of Arizona, where we were, primarily, on Saturday, and where most of these folks live on ranches—places that used to be very safe. Today, these folks do not feel they can sleep at night or move around without carrying weapons. They need to travel in pairs. This is the area in which an extraordinarily difficult tragedy occurred when a long-time resident of the area was slain, it is believed by one of the drug cartels or other smugglers who frequent the area.

The human tragedy is the real heart of this, but let me cite some statistics, because when the Secretary of Homeland Security says we are secure as we have ever been, I think these statistics would at least belie part of that claim.

About 50 percent of all illegal immigrants enter through Arizona. In fact, they enter through essentially the eastern one-third of that particular map. The number of illegal immigrants living in Arizona increased over the last decade about twice, up to over 600,000 people. It is estimated that about 12 percent of Arizona's workers are illegal immigrants. According to the Maricopa County Attorney's office, about 12 percent of the county's population and about 22 percent of felony crimes committed are committed by illegal immigrants.

My colleague has talked frequently about the fact that Phoenix, AZ, our hometown, is the second largest kidnapping capital of the world, and the largest in the United States—second in the world only to Mexico City.

We can go on and on about the statistics. We have the highest rate of property crime among the 50 States in the last year for which the FBI reported the statistics in 2008. Our sheriffs and other law enforcement tell us that between 15 and 20 percent of the individuals apprehended at the border have criminal records or are wanted for crimes in the United States.

Phoenix is a primary originating city, where drugs are brought from the border and held in Phoenix and then transported to other cities. We lead the Nation in marijuana seizures—50 percent. Heroin is increasingly found in Arizona, and on and on and on.

The statistics don't lie, of course. But the real tragedy is the human tragedy—the fear that people have; people who are fourth or fifth generation ranch families in the area; people in town, who are increasingly the subject of break-ins and property crimes and the like.

But none of this even begins to talk about what happens when the people who are smuggled into the country, are held in drop houses—generally in the Phoenix area—for transport either west to Los Angeles or anywhere east in the country. They are essentially victimized by the very people who smuggle them in and who demand ransom from their families in Mexico, El Salvador, or Guatemala, or wherever they might have come from. And until they pay that ransom, they are brutalized and assaulted and become victims of crime themselves. And, of course, they rarely report that crime.

So the human tragedy here is the real story. But it is important for us to at least cite the statistics and show our colleagues the signs that the U.S. Government itself feels constrained to post in order to warn people to stay out of an area which encompasses probably about 20 percent of the State of Arizona.

Mr. MCCAIN. And may I also make the comment that my colleague from Arizona points to about the terrible and unspeakable treatment that is inflicted upon these individuals who are brought in by human smugglers. Almost all are brought up by human smugglers. Where are the human rights advocates and activists? Shouldn't they be standing up and saying: You have to have a secure border so that these unspeakable indignities—the

rape and ransom and all these things—will be stopped?

Secondly, I want to point out very quickly to my colleagues that in recent years, 80 percent of the wildfires in our Coronado National Forest have been human caused—75 percent of those are attributed to undocumented aliens who fail to properly extinguish fires started to signal for rides, cook food, or dry clothing. The Coronado National Forest now has to send armed officers to clear wildland fire areas and to provide security for firefighters. The Forest Service has reported accounts of armed smugglers walking through the middle of active firefighting operations. And now, in its fourth week today, as we speak, the human-caused Horseshoe fire is burning in the Chiricahua Mountains in the Coronado National Forest, 5 miles from the town of Portal, AZ. It is the site of very heavy drug trafficking and border-crossing activity.

With the few minutes we have remaining, I want to engage Senator KYL in a conversation about what we need to do and why we need to secure the border first. There has been a lot of publicity in the last 24 hours about a conversation that Senator KYL had with the President of the United States. I was not there, but I was there a few weeks ago when the President of the United States came and had lunch with Republican Senators and gave a list of the issues that he was concerned about, with immigration being one of the items he mentioned. So Senator KYL and I responded to the President of the United States.

It was made very clear to me in the conversation we had—and I am sure our 39 other colleagues who were there will recall—that the President basically conditioned his support for border security to overall comprehensive immigration reform. We went back and forth. I tried to explain to the President that we gave amnesty back in the 1980s. Somewhere around 3 million illegal immigrants were given amnesty, but the promise was that we would secure the border. Obviously, we didn't secure the border and we now have 12 million people in the country. As Senator KYL mentioned, there are some hundreds of thousands in the State of Arizona illegally.

So our point is that even if we went through comprehensive immigration reform, if we don't have a secure border, then some time from now we will have another group of illegal immigrants we will have to address, and so the issue argues for getting the border secured first. It can be done in 1 or 2 years. It isn't that expensive, when you look at the costs of a wildfire and all of the things, drugs and everything else associated with it, not to mention a violation of human rights.

There is a big stir about the conversation the President and Senator KYL had. It was clear to me in the conversation, in front of 39 Republican Senators, that the President of the United States said yes, he would secure the border, but we had to have ''comprehensive immigration reform.'' This is the difference between our position and that of the President. We say secure the border, have the Governors of the border States certify it is secure, and then we can certainly move on. But the American people have to have the assurance that we are not going to revisit this issue time after time. Every nation has the obligation to secure its borders.

Mr. KYL. Mr. President, when Senator MCCAIN and I asked the acting head of the Border Patrol in the area where we were on Saturday, what do you need, he basically said, ''More of everything.'' He talked about the need for 800 more Border Patrol agents. He talked about the need for more surveillance—something Senator MCCAIN has talked about a lot, surveillance to cover a very big area where you are probably never going to have enough personnel even if we bring in National Guard troops. He welcomed the National Guard troops to the area. He said we are going to have to have consequences for people crossing. I talked to him about Operation Streamline. In the Yuma sector of the border, which is on the western part of the Arizona border, the Yuma sector is very close to being operationally clear of illegal immigration issues because they have enough agents, they have enough fencing. By the way, he talked about the need to repair and replace a lot of the fencing in his sector. But they also have a policy that, instead of catch and release, where the people are simply put on a bus and sent back to Mexico, they actually are prosecuted and have to spend at least 2 weeks in jail.

That is a huge deterrent. Because if you are a criminal, obviously you don't want to be caught and go to jail, and if you are here to work and send money back to your family, you are obviously not doing that if you spend time in jail. He said there have to be consequences. We believe the expenditure of somewhere between $1 billion and $3 billion over the next couple of years could provide adequate resources—this is our 10-point plan—adequate personnel, the fencing that is required, the surveillance, the technology, and also the extra prosecutors, courtroom, and detention spaces that would be necessary to provide the deterrent or the consequences, as he put it. There is no doubt the border can be secured. What we need is the will to do it.

Mr. MCCAIN. What Senator KYL and I are trying to report to our colleagues is, No. 1, the border is not secure. The border is not secure. No. 2, it can be secure. How could someone claim our border is more secure than ever if the Federal Government has to put up that kind of warning to American citizens on American soil? If nothing would convince my colleagues that we need to do a lot more, it is the actions of the Federal Government. That is not a private landowner who put up that sign. That is the Bureau of Land Management. So have the Department of Interior and other agencies.

The point is, we are trying to tell our colleagues it is not secure. We can secure it. Our citizens deserve that.

But the second point we want to make as forcefully as possible is: Let's get this border secure, which we can do, and then we can move forward with comprehensive immigration reform and work together with our colleagues on the other side of the aisle. But for us to go back to our constituents and to the American people, and say: Hey, we moved forward with this legislation, yet we still are having to put up signs such as this, that people should avoid being in an active drug and human smuggling area, in the United States of America, is not a convincing argument that they are ''as secure'' as ever.

Mr. KYL. Mr. President, might I inquire how much time remains on our side?

The PRESIDING OFFICER. There remains 6 minutes 18 seconds.

Mr. KYL. That is the time remaining on our side.

The PRESIDING OFFICER. That is correct.

Mr. KYL. Mr. President, what I wish to do is take about 3 more minutes and then my colleague can close.

As he said, if you need a different kind of reason to want to secure the border, then look at what is happening to our environment. I know the Presiding Officer—and his father before him—is keen on protecting the great national treasures of our country, our environment. Coming from adjoining States, we share a lot of the same kind of country. The area in the extreme southwestern part of his State and the extreme southeastern part of our State is known for some of the best birding in the world. The part of northern Mexico that borders our States provides a sanctuary for birds that are not found anywhere else in the world. This fire my colleague mentioned is burning right up to the creek which is one of the watersheds that represents the prime area for these birds to exist. Their habitat will be destroyed if we continue to have fires set by illegal immigrants in the area that destroy the habitat.

If you look at the environment of the area from the air, you see that there are thousands, if not hundreds of thousands, of paths that are worn in parts of the desert that are basically off limits to American citizens and even to our law enforcement officials, but the smugglers use these trails and they deposit their trash. Everybody knows that once you have cut the desert, it takes hundreds—hundreds—of years for that desert to respond. That is just one reason.

Obviously the human tragedy is the one that is of most concern. If my colleagues would hear this one plaintive cry, we were told on numerous occasions on Saturday: Please, go back to Washington and tell your colleagues what it is like. Tell them how we are

suffering. Tell them what we have to go through just to live here. Can't our Government at least provide basic protection from crime? These are members of the family of Robert Krantz, who was brutally gunned down, and fellow ranchers in the area and other citizens who live in the small communities there. They believe their government has abandoned them. They look right into our eyes and say: What are you going to do about it?

The best we can do is to tell you the fear they have, the suffering they have gone through, the difficulty they have continuing to live in an area, as I said, in which some of their families have lived for four and five generations, to pass that message on to my colleagues and say: OK, if it is the environment you care about, there is a reason to be there; if it is crime, there is a huge reason to be there; if it is the cost to the Federal and State government, we need to get hold of this problem. But if you just care about the people who are there, we have an obligation as their representatives to assure their protection, and that is the message we are coming to the floor today to convey to our colleagues. Please listen, if not to us, to our constituents, and remember we all work for all of the people of the United States of America. We are all Senators. So every one of us here has an obligation to the folks—yes, in your State but also to the folks in our State—to at least provide them the basic protection and give them a sense that they do not live in a Third World country between the United States and Mexico; that they are American citizens deserving of the protection of the U.S. Government.

Mr. MCCAIN. Mr. President, there is no way I can elaborate on that very strong statement, so I yield the remainder of our time.

The PRESIDING OFFICER. The Senator from Washington is recognized.

HOMELESS WOMEN VETERANS AND HOMELESS VETERANS WITH CHILDREN ACT

Mrs. MURRAY. Mr. President, I rise today in support of S. 1237, the Homeless Veterans and Other Veterans Health Care Authorities Act of 2010.

I just had the opportunity to meet with an amazing woman named Natalie and her two children who are actually here in Washington right now.

Natalie is currently living in Issaquah in my home State of Washington—but she has been through some tough times over the past few years.

She is a Navy veteran and a single mom. But she became homeless in 2007 when she couldn't find work and had to move out of the house she was staying in.

Like most moms, Natalie wanted nothing more than to provide her two children with the stable and loving home every family deserves—so she fought to secure transitional housing, and she was very fortunate to find a program called Hopelink in Washington State that gave her the support she needed to get back on her feet.

Natalie is now back in stable housing, taking care of her children, and advancing in her nursing career—and she is here in Washington, DC, today to help make sure no other family has to face the challenges she overcame so bravely.

Unfortunately, not every family gets the support that Natalie's did.

Homeless women veterans and homeless veterans with children are two terribly vulnerable groups that are growing by the day.

Back in my home State of Washington, veterans service organizations and homeless providers have told me they are seeing more homeless veterans coming for help than ever before.

And, unfortunately, more and more of these veterans are women, have young children, or both.

In fact, female veterans are between two and four times as likely to be homeless than their civilian counterpart and they have unique needs and often require specialized services.

That is why I introduced the Homeless Women Veterans and Homeless Veterans with Children Act with Senator JACK REED and Senator TIM JOHNSON.

This legislation would take three big steps forward toward tackling the serious problems facing this vulnerable group.

First of all, it would make more front-line homeless service providers eligible to receive special needs grants.

This would help organizations in Washington State and across the country help support families like Natalie's.

It would also expand special needs grants to cover homeless male veterans with children, as well as the dependents of homeless veterans themselves.

And it would extend the Department of Labor's Homeless Veterans Reintegration Program to provide workforce training, job counseling, child care services and placement services to homeless women veterans and homeless veterans with children.

It is so important that we not just provide immediate support—but that we also make sure our veterans have the resources and support they need to get back on their feet.

In addition to helping homeless veterans, S. 1237 also includes a number of other provisions aimed at supporting our nation's heroes.

It extends eligibility to health care for certain veterans with disabilities who served in the Persian Gulf war.

It would establish a medical center report card to allow veterans and their families access to transparent performance comparisons between VA facilities and between VA and non-VA sites.

And it would direct the VA to enable State veterans' homes to admit parents who had a child die while serving in the Armed Forces.

This is a very personal issue for me.

Growing up, I saw firsthand the many ways military service can affect both veterans and their families.

My dad served in World War II and was among the first soldiers to land on Okinawa. He came home as a disabled veteran and was awarded the Purple Heart.

Like many soldiers of his generation, my father didn't talk about his experiences during the war. In fact, we only really learned about them by reading his journals after he passed away.

And I think that experience offers a larger lesson about veterans in general. They are reluctant to call attention to their service, and they are reluctant to ask for help.

That is why we have to publicly recognize their sacrifices and contributions.

It is up to us to make sure that they get the recognition they have earned.

And it is up to us to guarantee that they get the services and support they deserve.

This bill passed through the Senate Veterans Affairs Committee with strong bipartisan support, and that is how it should be, because supporting our veterans shouldn't be about politics—it should be about what kind of country we want the United States to be and about what our priorities are as a nation.

In his second inaugural address in 1865, President Lincoln said our Nation had an obligation to ''care for him who shall have borne the battle and for his widow, and his orphan.''

Now, in 2010, I believe we not only need to care for him—we need to care for her and for his and her families and for every man and woman coming home after serving our country so bravely.

That is why I am proud to stand here today for Natalie, her children, and families just like hers across the country—to urge my colleagues to support S. 1237, the Homeless Veterans and Other Veterans Health Care Authorities Act of 2010.

I hope we can pass this expeditiously off the floor and get these services out to the men and women who have served us all so well.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. The Senate is in morning business.

METRO SAFETY

Ms. MIKULSKI. What morning business this is. For those of us in the National Capital region, this is indeed a very solemn day. One year ago today, nine people died on Washington's

Metro. We were shocked and horrified when a red line Metro train struck another train. Eight passengers were killed, including one Marylander from Hyattsville. A train operator also died, and over 50 passengers were injured.

Those men and women died not as a result of a terrorist attack or of sabotage, these deaths happened because of Metro. It was a failure of management, it was a failure of technology, and it was a failure of the culture of safety at Metro.

Today our hearts go out to those families, those who lost loved ones and those who bear the permanent injuries of that fateful day. Since that day there have been 4 more deaths at Metro. This brings the total to 13 deaths in the last year. Let me repeat that—13 people died by Metro in the last 12 months.

After that June 22 crash 1 year ago, four Metro employees died on the job. One last August was a track repairman from Silver Spring who was hit by maintenance equipment. In September, another employee died. A communications technician was hit by a train. In January, two more Metro employees died. They were automatic train control technicians when they, too, were struck by a maintenance truck.

Well, in December, I said enough is enough. We always say a grateful nation will never forget after a terrible accident and we go to a memorial service. Well, for me what happened at Metro was not a memorial service, it was a call to service and for action by us. The best way we can honor the memory of those who died and those who were injured is to reform Metro.

I have called for that reform. In December during my testimony on rail safety legislation I introduced, I spoke out and said it was time for change at Metro. They needed new leadership. They needed a fresh approach. They needed to adopt a culture of safety that was unrelenting in terms of their focus on the details to protect the people who work on the Metro and the people who ride the Metro.

I was shocked to learn there are no Federal safety standards for any Metro. So whether we are talking about the National Capital region Metro or New York's subway system or California's subway system, there are no Federal safety standards.

That is why I worked with NTSB and the Federal Transit Administration to develop legislation that would do two things: give our own U.S. Department of Transportation the authority to establish and enforce Federal safety standards so we would have uniformity, conformity, and metrics for measuring safety on the Metro that we help fund. It also would require the U.S. Department of Transportation to implement the National Transportation Safety Board's recommendation list which includes requiring that railcars have crashworthy standards, emergency entry and evacuation standards, and regulations for train operator shifts.

We have safety standards for commercial airplanes. We have safety standards for buses that carry passengers. But we do not have safety standards for railcars that are used in subways. I think that is wrong.

What we also found was that safety inspectors that are part of a unique governing system were denied access to the Metro tracks. That is when we said we needed to find out what was going on. I called for a Federal audit of Metro, a Federal investigation of just what was going on there.

Thanks to Secretary LaHood and FTA leader Peter Rogoff, well known to those of us in the Senate, they did an outstanding audit which was indeed an outstanding service for us all. Their findings were shocking, hair-raising, and chilling. What did we find out?

Supervisors and train operators did not exactly know where Metro workers might be doing maintenance on the tracks until they actually saw them. Can you imagine? People driving the train had to see with their own eyes their workers to make sure they did not hit them.

There was no technological warning system. Operators weren't given the exact location of workers on the tracks. Information was generalized and workers were often in different locations than what operators were told. So the Metro itself was a lethal tool. Metro did not have the manpower to implement its own safety programs. It did not have a list of the top ten safety hazards and concerns. The list goes on and on about the audit.

I held a very vigorous oversight hearing, both Senator CARDIN and myself. We pushed Metro to come up with a checklist for change. We insisted that they come up with this checklist. I demanded that they give it to us right then and there.

They told me they were going to be working on it, and I said: Look, tell me what you are going to do. Well, listen to how ground shaking it was: Replace the oldest railcars on the fleet, develop a realtime automatic train control redundancy system, strengthen the expertise of the safety department, complete the roadway worker protection program, develop a training and certification program for bus and rail personnel, strengthen employee knowledge of rules and rules compliance, develop an accident and investigation database, create a strong internal training tracking database, fill vacancies in the safety department, and improve the agency's safety culture.

Imagine, it took a Senator holding a public hearing to get a must-do list on the safety list for change. This is unacceptable. We have to make sure we have Federal legislation. We need to do two things: We need to have Federal legislation, and we need to have Federal funding.

I want to make sure we save lives on the Metro. This is why I introduced safety reform legislation. I understand the Banking Committee is considering it. Well, the Banking Committee needs to pass it, and the Banking Committee needs to pass it before the July 4 work break.

I know the Banking Committee has a lot on their plate. I know they are trying to regulate Wall Street. Good for them. Three cheers for them. We want that. But while we are making sure people do not lose their money on Wall Street, we have to make sure they do not lose their lives on Metro. So I ask our friends on the Banking Committee, could we kind of get this done this week, next week, before the July 4 break?

The bill does three things: It gives the Secretary of Transportation the authority to establish and enforce safety standards, including those standards for railcars and making sure there is an employee safety certification training program; it also requires oversight of the agencies monitoring safety to be independent; it funds federally approved State oversight agencies to make sure they have the rules of the road and the resources to do it because we regulate so much of this at the State level.

I am pretty worked up about this. I hope we move the bill. I hope we move it before the break.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEMIEUX. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEMIEUX. I ask unanimous consent to speak until the Senate goes into recess at 12:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

OILSPILL RESPONSE

Mr. LEMIEUX. Mr. President, I come to the floor, as I did yesterday and last week, to talk about the economic and environmental disaster in the Gulf of Mexico and the lack of response by this government in dealing with the disaster. Everything that can be done should be done to stop this oil from coming on our beaches, from going into our coastal waterways, and from damaging our way of life on the gulf coast.

I specifically come to talk about what is happening to Florida. For the last week, I have been making statements and questioning why there are not more skimmers off the coast of Florida. I have been asking for more skimmers to be sent to the Gulf of Mexico for many weeks.

A week ago today, I met with the President, ADM Thad Allen, and other State and local officials in Pensacola to address many issues concerning the response to the oilspill. At that time, we were told there were 32 skimmers off the coast of Florida. Today, we are told there are 20. It makes no sense

that there are not more skimmers. Admiral Allen has told us there are 2,000 skimmers in the United States. We have heard reports of offers of foreign assistance of skimmers that are still under consideration or have been declined. Why are there not more skimmers in the Gulf of Mexico skimming up the oil before it comes onshore? We can't even get a straight number as to how many skimmers are off the coast of Florida.

I have two documents, which I ask unanimous consent to have printed in the RECORD. One is the Deepwater Horizon response of Monday, June 21, from the State of Florida. The second is the National Incident Command response for June 21 from the Coast Guard.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Charlie Crist
Governor

David Halstead
State Coordinating Officer

Snapshot Report # 32
Monday, June 21, 2010 at 0900 hrs EDT

Mobile Unified Command Boom Operations:

Tier	Proposed/ Need	Deployed	Staged	Shortage	Percent Under
1	303,600	194,700	57,350	51,550	16.98%
2	280,100	132,800	0	147,300	52.59%
Total	583,700	327,500	57,350	198,850	34.07%

County Contracted Boom Tier 3 Totals:

County	Deployed	Proposed	Staged
Escambia	20,000	N/A	0
Santa Rosa	12,100	N/A	0
Okaloosa	36,500	N/A	0
Walton	0	N/A	0
Bay	85,500	N/A	9,961
Gulf	0	N/A	11,700
Franklin	0	139,800	98,600
Wakulla	N/A	71,500	0
Jefferson	N/A	18,835	0
Taylor	N/A	N/A	N/A
Total	154,100	230,135	120,261

Vessel Assets Deployed:

Type	Working	Staged	Ordered	Location Deployed
Off-Shore Skimmer	111 (9 are skimmers)		2	*TF 701*- Chandler Islands, Ala to 3NM off FLA *TF 702*- 20NM off FLA shore *TF 703*- Chandler Islands, Ala to 3NM off FLA *TF 704*- Chandler Islands, Ala to 3NM off FLA *TF 705*- 2-10NM off Panama City
Near Shore Skimmer	37 (11 are skimmers)	0		*TF1*- Destin - Panama City *TF3*- Pensacola-Destin *TF4*- Perdido Pass *TF5*- Petit Bois Island
Total	148	0	2	

Vessels of Opportunity (VOO):

VOO LSA	Off Shore Assets	Near Shore Assets	FLA Assets	Total VOO Assets	Deployed VOO Assets
Pensacola	75	40	80	195	381 74 using Sorbent, Snare & Containment
Destin	200	100	112	412	
Panama City	153	60	84	297	
Port St Joe	100	50	42	192	
Apalachicola	100	50	37	187	
Carabelle			12	12	
Total	628	300	367	1295	

Product Collection at Source:

06-20-10	Enterprise	Q4000	Total
Oil	14,574	8,716	23,290
Gas	32.5	15.8	48.3

BP Reported FLA Product and Trash Recovered:

Staging area	Daily Product	Cumulative Total
Pensacola	13.81	141.97 tons
Panama City	0	1.46 tons
Total	13.81	143.43 tons

Small Business Administration Loan Applications:

Issued	Accepted	Declined	Approved
382	95	17	5
Loan amount approved: $255,000.00			

Clean-up Teams:

Team	Personnel	Staging Location
Emergency Response Team (USCG)	18	Pensacola
Emergency Response Team (USCG)	9	Panama City
Emergency Response Team (USCG)	9	Port St. Joe
Total	36	

(BP) Contractor Personnel	Personnel	Staging Location
Beach cleanups	1621	Pensacola, Panama City
Qualified Community Responders	313	Pensacola, Panama City
Gross Vessel Decon	27	Pensacola
	27	Panama City
Boom Operations	541	Pensacola, Panama City
Total	1955	

SCAT Teams:

Team ID	County
SCAT 4	Escambia
SCAT 6	Escambia
SCAT 7	Okaloosa
SCAT 9	Bay
SCAT 10	Walton

County EOC Activations:

County	Activation Level
Escambia	2
Santa Rosa	2
Okaloosa	2
Walton	2
Bay	2
Gulf	2
Franklin	2
Wakulla	2

Recon Teams:

County	ATVs Staged	ATVs Deployed
Escambia	0	7
Santa Rosa	0	1
Okaloosa	0	5
Walton	0	4
Bay (FWC)	0	5
Gulf (FWC)	0	2
Franklin	0	1
On Stand-By	7	0
Total	7	25
County or Agency	**Resources Staged**	**Resources Deployed**
Walton	0 – Command Bus	1 – Command Bus
FWC	0 – Boats	42 – Boats
FWC & CAP & USCG	1 – Planes	3 – Planes
FWC	0 – Helicopters	3 – Helicopter
FLNG	0 – Planes	2 – Planes
FLNG	0 – Helicopter	2 – Helicopter

State Personnel:

Area Of Operation	DEM	DEP	FWC	DOT	DMS	AWI	DOH	DOF	FLNG	CAP	SMT	IMT
SEOC	30	2	6	1	2		27	2	47	9		5
Mobile	7	4	3	1	1	1	1		2		7	6
Panhandle	3	40	85									
Peninsula	1											
Total	41	46	94	2	3	1	28	2	49	9	7	11

BP Claims:

BP Claims in Florida	Claims	Approx. Paid
Grand Total	*17,083*	$15,221,896.03
One claimant has one claim which may have multiple events		

Recovered Oiled Wildlife:

	Recovered alive*	Released	Died or euthanized	Still in Rehab	Recovered dead
6/20/10	1		0	28	0
Total #	58	2	27		38

*Does not include marine mammals or turtles. (2 live visibly oiled sea turtles have been rescued)
*Primarily northern gannets and brown pelicans, pied-billed grebes.
See the consolidated wildlife report updated by noon each day:
http://www.deepwaterhorizonresponse.com/go/doctype/2931/55963

SHORE OPERATIONS - FLORIDA (Panhandle)

National Incident Command Daily Situation Update

Prepared By: CDR Becker / CDR Hein

0600 EDT 21 June - 0600 EDT 22 June 10

WX: Heat index 90.
SHORELINE: No new oiling in Pensacola. Beach cleaning conducted from Escambia to Okaloosa counties. Response personnel deployed to Walton County.
NEARSHORE: Task Force #1 relocated to respond to new reports of oil at Panama City. Task Force #3 continued day and night operations in Pensacola Bay. Task Force #4 is located south of Perdido Key conducting skimming operations. Night operations conducted for the protection of Destin Pass.
OFFSHORE: Task Force #702 operated 10 miles south of Perdido Pass. Task Force #703 continued skimming operations 12 miles south of Santa Rosa Island. Task Force #704 conducted skimming operations 25 miles south of Pensacola Pass. MIGHTY SERVANT III positioned 22 miles off Pensacola Pass for continued skimming operations.
BOOM: Continued deployment of phase 2 boom in Choctawhatchee Bay. 7,900' deployed last 24 hours.

State and Local Concerns

- Unified Incident Command and Liaison Officers working to address Local and State Officials' concerns about the plans for creating additional staging areas throughout the state as operations increase.
- Waste managment is a growing problem.
- CNN attending Town Hall Meeting in Port St. Joe on June 22.
- FL Responders: 87%. (Out-of-State workers include those brought in possessing pollution response expertise and include adjacent state residents.)

Future Operations - Next 72 Hours

WX: 60% chance of storms with highs around 90 degrees. Strong storms possible; producing heavy rain, frequent lightning, and strong gusty winds. Heat index 100-104.
OIL EXPECTED ASHORE: Coastal regions of Escambia, Bay, Wakulla, and Walton Counties.
OIL RESPONSE PRIORITIES: Continue ramping up beach cleanup operations in impacted areas across Okaloosa, Walton, and Bay counties. Continue night operations in Pensacola area. Shift boom priorities to protect marsh areas. Establishing deployment sites in eastern part of Area of Operations.

Shoreline Impacts (Verified by SCAT Assessments)

County	Current Shoreline Impacts (Miles)	Type of Impact	People Assigned	Estimated Clean Date (Range for County)	SCAT Assessed to Date
Escambia	35.7	Light	1,738	28-Jun	46.3
Santa Rosa	0.0		0		0.0
Okaloosa	2.7	Light	293	22-Jun	25.7
Walton	7.5	Light	349	22-Jun	24.6
Bay	7.9	Tarballs	400	22-Jun	42.5
Gulf	0.0		60		29.7
Franklin	0.0		39		0.0
Wakulla	0.0		3		0.0
Jefferson	0.0		0		0.0
Taylor	0.0		0		0.0
TOTAL	53.8		2,882		168.8

Claims Summary[1]

# of Claims	$ Disbursed	Denied	Checks Disbursed	> 30 days	Centers	People
20,024	$15,998,477	0	4,764	0	12	141

Wildlife

Type	Collected Alive	Collected Dead	Total	Released
Birds	56	297	353	2
Sea Turtles	10	39	49	0
Mammals	3	1	4	1

Resources

Boom Stats[2]	
Boom Required by Plan	583,700
Required (w/ wear & tear)	642,070
Boom Deployed	335,400
Boom Staged	49,450
Percent Complete	66%
Surplus/Shortfall	-198,850
Requested above Plan	0
Deployed above Plan	0
Boom rcvd in last 24hrs	0
Boom Ordered[3]	0

Personnel Totals ("Other" Category Includes Volunteers)	
Component	Number
USCG	101
Nat'l Guard	83
Contractors	7,231
BP	7
Other	66
Grand Total	7,488
SCAT/RAT	9

Equipment Assigned[4]

Platform	Number	Platform	Based (acft)	Spot/Recon (sorties)	Spray (sorties)	Logistics (sorties)
Vessels of Opportunity[5]	387	Fixed Wing	2	8	0	1
Barges	21	Helo	3	16	0	0
Other Vessels	209					
Skimmers	108					

[1] Deepwater Integrated Services Team meeting with state officials to clarify processes and data access.
[2] Boom requirement reflects agreed upon changes to the Florida ACP.
[3] 1M ft of boom on order for entire response and will be allocated as needed.
[4] Flight sorties conducted throughout the entire gulf region. Near/Offshore skimmers are UAC assigned assets.
[5] VOO is contracted and activated. It does not include 1,380 VOOs contracted and not activated.
Qualified Community Responders: To date, 3,390 volunteers have been trained to assist in land-based clean-up efforts.

Mr. LEMIEUX. The first of these, the Deepwater Horizon response from Monday, June 21, says there are 20 skimmers off the coast of Florida. The second, from the National Incident Command, says there are 108 off the coast of Florida. Last week, we had this same discrepancy between these two reports. We questioned the Coast Guard. The Coast Guard told us the information contained in the national incident report was not, in fact, correct. We can't get a straight answer as to how many skimmers are currently off the coast of Florida, but it appears from the most reliable information—and I am still waiting for a straight answer—that there are only 20. One percent of the skimmers of the United States are off the coast of Florida, with the worst economic and environmental catastrophe looming off our shores. Huge swathes of water are washing up tar balls all the way from Pensacola Beach, now to Panama City, FL.

We received a briefing this morning from the Navy and the Coast Guard. I thank Secretary Mabus of the Navy, who provided RADM John Haley as well as a captain from the Coast Guard and other folks from the Navy to brief me on the status of what skimmers the Navy has and what they are doing in the gulf. We found out there are 23 naval skimmers, relatively small skimmers that can fit on the back of a truck or be put on a train or in an airplane. That is how they were transported to the gulf. They are welcome. We are happy they are there. There are 6 on the way and 29 skimmers total.

There are another 35 skimmers they would like to bring down, but they are under a category called legally constrained. What does that mean? That means that for some reason, the law is prohibiting the Navy and the Coast Guard from getting these skimmers here. Why hasn't this been waived? Why hasn't the President signed an Executive order? Where is the sense of urgency 62 days into this to get these skimmers to the gulf coast? We are going to look into what Federal law may be prohibiting and legally constraining the Navy and the Coast Guard from getting the skimmers. I will offer legislation, if need be, to waive that. I have already offered legislation to waive the Jones Act, which has been cited as a prohibition or perhaps an obstacle to bringing in skimmers from foreign countries.

Let's talk about that issue. We know there are 2,000 skimmers in the United States. Yet only 20 are off the coast of Florida, if that is the correct information. We know the Navy wants to bring an additional 35 skimmers, but they are legally constrained and we have not yet undone that or secured those skimmers, some 62 days after the oil started flowing.

Let's talk about foreign offers of assistance. There was a State Department report last week: 17 countries have made 21 offers of assistance. The Associated Press reported that they had not been responded to or had been declined. We have more current information than that. The State Department reports about 56 offers of assistance from 28 countries and international groups. Of the 56 offers of assistance, 5 have been accepted. That includes booms—people could use the Internet to send a message about navigation in the gulf—and skimmers or skimmer equipment. BP has accepted three offers of assistance, including booms and skimmers. Two offers are categorized as ''unknown'' or ''declined.'' Forty-six offers are currently under consideration, 62 days into this incident. Where is the urgency? Where is the alacrity of the response to get this done and get these skimmers in the gulf?

I have a document, ''U.S. Department of State Chart on Deepwater Horizon Oil Spill Response: International Offers of Assistance from Governments and International Bodies,'' dated June 18, 2010. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. Department of State Chart on Deepwater Horizon Oil Spill Response: International Offers of Assistance from Governments and International Bodies June 18, 2010

Country/Entity	Date of Offer	Resources Offered	Status of Offer	Reimbursement Required?
Belgium	15 June 2010	Skimmers	Under consideration	Yes
	14 June 2010	Fire Boom	Under consideration	
Canada		Dispersant	Under consideration	Yes
		Containment and Fire Boom	Accepted 9,843 ft containment boom accepted June 4. Arrived on scene and now in the field for staging. *More boom offered 14 June, under consideration.	
	30 April 2010	People/technical	Unknown. This offer was made directly from British Columbia to the Gulf Coast States.	
China via IMO	14 June 2010	Containment Boom	Under consideration.	Yes
Croatia	5 May 2010	People/technical – proposed solution	Proposed solution has been shown to engineers and technical experts, will be incorporated into response as needed.	Yes
European Maritime Safety Agency	13 May 2010	Containment Boom	Under consideration	Yes
		Skimmers		
		Vessels	Under consideration. Only the USCG can accept this vessel offer.	
		Sweeping arms	Under consideration	
France		Dispersant	Declined. These chemicals are not approved for use in the U.S.	Yes
	19 May 2010	Containment and Fire Boom	Under consideration. *More boom offered 14 June,	

U.S. Department of State Chart on Deepwater Horizon Oil Spill Response: International Offers of Assistance from Governments and International Bodies June 18, 2010

			Under consideration.	
	18 May 2010	People/technical	Under consideration	
		Bird rehabilitation equipment	Under consideration	
Germany	12 May 2010	Containment and Fire Boom	Under consideration *More boom offered 15 June, under consideration.	Yes
		People/technical	Under consideration	
International Maritime Organization (IMO)	05 May 2010	People/technical	Accepted. Requested IMO to send communication to all 169 Member States and the maritime community generally regarding use of websites provided by the U.S. to assist in safe navigation in the Gulf of Mexico	n/a
Ireland	30 April 2010	General offer of assistance	Under consideration	Yes
Israel (via IMO)	14 June 2010	Containment Boom	Under consideration.	Yes
Italy	17 June 2010	Facilitation - private companies offering vessels, people/technical	Under consideration	
Japan	12 May 2010	Containment Boom	Under consideration	
Joint UNEP OCHA Environment Unit	29 April 2010	People/technical – technical and resource facilitation	Under consideration	Yes
Kenya (via IMO)	14 June 2010	Fire Boom	Under consideration.	Yes
Mexico	03 May 2010	Dispersant	Under consideration	Boom was offered gratis, other materials and equipment were purchased
		Containment Boom	BP purchased 13,780 feet of boom and two skimmers in early May. Arrived in field and now on scene.	
		Skimmers		
Monitoring and Information Center (EU	30 Apr 2010	People/technical – coordination of offers among member states	Accepted	n/a

U.S. Department of State Chart on Deepwater Horizon Oil Spill Response: International Offers of Assistance from Governments and International Bodies June 18, 2010

MIC)				
Netherlands	30 April 2010	Vessel w/ storage capacity	Under consideration	Yes
		Skimmers	Accepted on May 23. BP purchased three rigid Koseq sweeping arms accepted May 23.	
		People/technical	Under consideration	
Norway	30 April 2010	Dispersant	Under consideration	Yes
		Containment and Fire Boom	Purchased by BP directly	
		Skimmers	Eight skimming systems accepted in early May	
		People/technical	Under consideration	
Romania	30 April 2010	General offer of support	Under Consideration	Yes
Russia	7 May 2010	Containment Boom	Under consideration	Yes
		Vessels		
		Oil storage containers		
		People/technical		
Republic of Korea	2 May 2010	Dispersant	Under consideration	Yes
		Containment Boom	Under consideration	
		Skimmers	Under consideration	
		People/technical	Under consideration	
Spain	30 April 2010	Containment and Fire Boom	Under consideration *More boom offered 14 June, under consideration.	Yes
		Sweeping arms	Under consideration	
Sweden	30 April 2010	Containment Boom	Under consideration	Yes
		Skimmers	*More skimmers offered 15 June, under consideration.	
		Vessels – 3 barges, 3 recovery boats	Under consideration *Another vessel offered 15 June,	

U.S. Department of State Chart on Deepwater Horizon Oil Spill Response: International Offers of Assistance from Governments and International Bodies June 18, 2010

			under consideration	
		People/technical	Under consideration	
Tunisia (via IMO)	14 June 2010	Fire Boom	Under consideration	Yes
Qatar	14 June 2010	Boom	Under consideration	Yes
UAE	10 May 2010	Dispersant	Under consideration	Yes
		Containment Boom	Under consideration	
		Skimmers	Under consideration	
		People/technical	Under consideration	
United Kingdom	30 April 2010	Dispersant	Under consideration. Only 11 tons of chemicals offered are licensed for use in the U.S.	Yes
		Containment Boom	Under consideration	
Vietnam	05 May 2010	Vessel w/ sweeping arms	Under consideration	Yes

Mr. LEMIEUX. This document goes through the various offers of assistance and what is the current status of the response. So if we go to the European Maritime Safety Agency, skimmers, under consideration. May 13 is the date of the offer. As of last Friday, no response. Republic of Korea, skimmers, under consideration. May 2, the offer is made. As of last Friday, no response. Sweden, April 30, skimmers; more skimmers offered on June 15. Under consideration. No response. United Arab Emirates, skimmers, under consideration, offer made May 10. No response. Why are we not welcoming all of these offers of assistance to bring these skimmers and put them in the Gulf of Mexico to suck up the oil?

I wish to show an example of an offer of assistance made to the United States. The ship here is from a Dutch company called Dockwise. The name of this vessel is the *Swan*. Unlike some of the skimmers being used and deployed by the Navy, which can be put on a train car or flown on an airplane to the location—and although very welcome are relatively small—this is a massive ship that could take in 20,000 tons of oil or an oil-water mixture off of the water. They rig the ship with skimming equipment that hangs off the sides.

So on May 7, Dockwise offered the *Swan* to the United States. The offer went under consideration. After 48 days, the offer for this massive ship with 20,000 tons of skimming capacity is still under consideration. But the ship is not available anymore because Dockwise now has employed the ship for other purposes because the U.S. Government, from all the information we have, never got back to them. Here is a Dutch company offering us a massive ship to skim 20,000 tons of oil and water off the top of the Gulf of Mexico, and the U.S. Government doesn't return the phone call. They never hear whether we want the ship. People involved with the situation believe the *Swan* was rejected due to Jones Act considerations and that a similar vessel, the SEAcorp vessel named the *Washington*, was chosen instead. The *Washington* is an American flag vessel. Its capacity is 1,000 tons, one-twentieth the capacity of the *Swan*. I am for America first, but why aren't we using both of them? There is plenty of oil to skim up. Use the American vessel, but don't fail to respond to the Dutch company that has this massive ship that has a 20,000-ton skimming capacity. Why would we not employ both?

I could not be more frustrated with the lack of response. I could not be more frustrated with the lack of a sense of urgency from this administration in getting this job done.

The people of the State of Florida are scared to death about the oilspill. When I was in Pensacola last week, I met a woman who works at the pier on Pensacola Beach. I asked her how things were going. She serves food at the pier.

She said: It has been very harrowing for us.

I asked her: Are people coming out?

She said: People from north Florida are coming to the beach. These are people who haven't been to the beach in a long time.

I said: Why are they coming?

She said: They are coming to see the beach one last time, as if they were going to visit a friend who was on his or her deathbed. They don't believe the beach will ever look the way they remember it looking.

Why we are not deploying every available national asset, military asset, and accepting every offer of assistance from foreign countries is beyond belief, and it is not acceptable. I will continue to meet with the Coast Guard and the Navy. When I see the President tomorrow at the White House, I will raise this issue with him. I will do everything I can to keep clamoring for this. It is not acceptable that in this, the greatest country in the world, our response would be this anemic.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 12:28 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business until 5 p.m. with the time equally divided between the two leaders or their designees, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

SELF-EMPLOYMENT TAX

Mr. ENZI. Mr. President, the Reid-Baucus tax extenders bill before the Senate includes several provisions that, to my knowledge, have never been vetted by congressional tax writers either in the Senate Finance Committee or in the House Ways and Means Committee. As an accountant with practical expertise in tax matters, this disturbs me greatly. It should also disturb the small business owners because there is a provision in this bill that would slap them in the face with a 15-percent tax increase. I am talking about the provision that would apply a 15.3-percent self-employment tax to the distributions of certain subchapter S corporations. Those are the small business corporations. This self-employment tax would apply when 80 percent of the gross income of the small business is attributable to three or fewer professionals in a professional services corporation. We are talking about the smallest of the small businesses.

This is a $9.1 billion hit on a small subset of small businesses engaged in a service trade. I wonder, the next time an offset is needed, will the Senate go after all the small businesses, changing the Tax Code this same way?

My colleagues on the other side of the aisle call this a ''loophole closer'' or an ''anti-fraud provision.'' I assure my colleagues this is neither. These words are convenient labels my colleagues use to defend tax-and-spend policies. The small business corporation provision is, however, a massive tax increase on small business.

This new payroll tax on nonwage income would hurt the ability of small businesses to reinvest and to create jobs. At nearly 10 percent unemployment, I don't think the Federal Government is in any position to pursue job-killing tax increases. Small businesses are the lifeblood of our economy. It is imperative that we nurture their growth, not hinder it, so they can create jobs and get our economy back on track.

None of us is in favor of fraud, but that is not really what we are talking about.

If the IRS wants to improve compliance with the self-employment tax, they have the right tools. They just need to use them. For example, the IRS Revenue Ruling 74–44 that specifically addresses the tax treatment of dividends in lieu of compensation gives them all they need.

I ask unanimous consent to have the IRS revenue ruling printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ENZI. I also have pages and pages of case law of which the IRS has successfully litigated the issue of dividends in lieu of compensation and the applicability of employment taxes.

Plus, Congress has codified the economic substance doctrine which says a transaction must have an economic purpose aside from the reduction of tax liability in order to be considered valid. In my opinion, this is the IRS's ace-in-the-hole card. The IRS can close any loophole—real or imagined—with the power of the new law.

Why can't the IRS do its job with the volumes of legislative regulatory and judicial tools it already has? For example, the IRS revenue ruling could be codified somehow, but then it wouldn't provide an offset for new programs, would it? Nor would it permit my colleagues across the aisle to reduce the tax on venture capitalists for their carried interest. I don't like the carried

interest provision, but to soften the impact of that policy on the backs of small businesses is just plain wrong.

Even the Government Accountability Office agrees the IRS should be doing more with what it has to crack down on fraud. In a 2009 report, the GAO stated: ''IRS efforts to enforce the rules on paying adequate wage compensation to small business shareholders have been limited,'' and the IRS provides only ''limited guidance in determining adequate compensation'' guidelines for taxpayers.

A 2002 report by the Treasury's inspector general found that ''IRS agents did not always address officer compensation, even when little or no compensation was paid.''

Clearly, the IRS isn't doing its job. That is the loophole. The IRS can and should do more with what they already have.

As a former accountant, I find this small business corporation payroll tax totally unworkable. For example, the tax would apply when 80 percent or more of gross income of the S corporation is attributable to three or fewer shareholders in the S corporation. How are taxpayers supposed to track the attribution of gross income? Let me give an example.

My friend, the senior Senator from Massachusetts, has introduced S. 144 that would exempt cell phones from the recordkeeping requirements under the listed property rules. Why? Because the paperwork burden is too costly and time consuming for business. I think it is a good bill, and I am proud to be a cosponsor. In fact, the bill has 72 cosponsors. That is a supermajority of the Senate who agree it is a good bill. But if a supermajority of the Senate agrees the bookkeeping burden of parcelling out an itemized cell phone bill between business and personal use is too onerous, why would we think that itemizing the source of gross income across shareholders and employees in an S corporation would be any easier?

This new payroll tax on small business was written without any input from the tax-writing committees, and it shows. Although I am sure it was unintended, this new law has the potential to reduce Social Security benefits. Since the new payroll tax would reclassify income from certain small businesses as wage income, it could trigger the earnings test for folks receiving early retirement benefits from Social Security.

Even Senator BAUCUS admitted the payroll tax provision needs ''modifications.'' I remember it well because he made this statement during a Treasury hearing a few weeks ago when I raised this issue as an onerous tax increase.

Not only is this a job-killing tax, but the manner in which it was concocted is appalling. The original tax extenders bill raised the taxes on Wall Street bankers, but when their lobbyists howled, lawmakers went looking someplace else—small businesses—for the revenue they needed. Small businesses aren't as able to defend themselves when the tax man cometh, and in the end it results in a new tax that robs David to pay Goliath.

The outrageousness of this new tax led me and my colleague, Senator SNOWE from Maine, to file an amendment that would strike the S corporation payroll tax from the underlying tax extenders bill.

If my colleagues across the aisle seriously believe that noncompliance with the self-employment tax among S corporations is a problem, then the best, most workable solution is to codify the ''reasonable compensation'' standard into law. This S corporation ''attribution of gross income'' basis isn't workable. If you don't believe me, again, I refer you to the experts.

I have a letter I wish to submit for the RECORD. It is a letter from the AICPA, the American Institute of Certified Public Accountants. In the letter they say:

We are concerned that there may be unintended consequences that have not been fully aired and discussed. Accordingly, we strongly support the amendment being offered by Senators Snowe and Enzi which would strike Section 413.

I ask unanimous consent this letter be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. ENZI. Again, this seemingly small provision in the tax extenders bill would have a $9 billion impact, and that is just on a subset of S corporations, these small businesses.

This payroll tax provision ought to be stripped and sent back to the tax-writing committees where it can be addressed in the proper fashion. I strongly urge my colleagues to support the Snowe-Enzi amendment in our efforts to remove this misguided, outrageous new tax. I think there is support on both sides of the aisle for doing that.

I thank the Chair and yield the floor.

EXHIBIT 1

[From taxanalysts]

FEDERAL RESEARCH LIBRARY: IRS REVENUE RULINGS

(Rev. Rul. 74–44; 1974–1 C.B. 287)

REV. RUL. 74–44

Advice has been requested whether, under the circumstances described below, an electing small business corporation incurred liability for the taxes imposed by the Federal Insurance Contributions Act, Federal Unemployment Tax Act, and the Collection of Income Tax at Source on Wages (chapters 21, 23, and 24, respectively, subtitle C, Internal Revenue Code of 1954).

The corporation is a small business corporation with two shareholders, that has elected, pursuant to section 1371(a) of the Code, not to be subject to corporate income tax, but to have all its income taxed directly to its shareholders.

In 1972, the shareholders performed services for the corporation. However, to avoid the payment of Federal employment taxes, they drew no salary from the corporation but arranged for the corporation to pay them ''dividends'' of 100x dollars, which is the amount they would have otherwise received as reasonable compensation for services performed.

Sections 3121(a) and 3306(b) of the Federal Insurance Contributions Act and the Federal Unemployment Tax Act, respectively, define the term ''wages,'' with certain specific exceptions not material here, as ''all remuneration for employment.'' Section 3401(a) of the Code, relating to the withholding of income tax, contains a similar definition.

In the instant case, the ''dividends'' paid to the shareholders in 1972 were in lieu of reasonable compensation for their services. Accordingly, the 100x dollars paid to each of the shareholders was reasonable compensation for services performed by him, rather than a distribution of the corporation's earnings and profits. Such compensation was ''wages'' and liability was incurred for the taxes imposed by the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and the Collection of Income Tax at Source on Wages.

EXHIBIT 2

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS,
Washington, DC, June 14, 2010.

Hon. MAX BAUCUS,
Chairman, Senate Committee on Finance, Washington, DC.

Hon. CHARLES GRASSLEY,
Ranking Member, Senate Committee on Finance, Washington, DC.

AMENDMENT TO H.R. 4213, SECTION 413—EMPLOYMENT TAX TREATMENT OF PROFESSIONAL SERVICE BUSINESSES—S. AMENDMENT 4342

DEAR CHAIRMAN BAUCUS AND RANKING MEMBER GRASSLEY: The American Institute of Certified Public Accountants (AICPA) opposes Section 413 of the American Jobs and Closing Tax Loopholes Act of 2010 which we believe threatens to result in a significant increase in taxes and complexity for S corporations and their shareholders, and for certain limited partners. Section 413 represents a major change in longstanding tax policy that has never been the subject of public hearings, thus, we are concerned that there may be unintended consequences that have not been fully aired and discussed. Accordingly, we strongly support the amendment being offered by Senators SNOWE and ENZI, S. Amendment 4342, which would strike Section 413. The proposed Section 413: Fails to take into account a fair and reasonable return on the human and investment capital of the owners; may reduce Social Security benefits for early retirees; may create unintended consequences to qualified and non-qualified retirement plans of owners that would now have both wages and self-employment income; and ignores the fact that the IRS currently has the appropriate enforcement tools it needs to re-characterize the distributions of S corporations as salary subject to employment taxes under FICA.

The AICPA would like to work with Congress and the IRS to address the best way to collect S corporation shareholders' and partners' fair share of employment/self-employment taxes. Such a provision should not be rushed through the legislative process without due process and deliberation. Thank you very much for taking time to consider our serious concerns and suggestions regarding Section 413 of this Act, and the much needed Snowe-Enzi amendment. If we can be of assistance, please contact Peter Kravitz, AICPA Director of Congressional & Political Affairs or Edward S. Karl, AICPA Vice President—Taxation.

Sincerely,

ALAN R. EINHORN,
Chair, Tax Executive Committee.

The PRESIDING OFFICER. The Senator from Montana.

MONTANA WEATHER EMERGENCIES

Mr. TESTER. Mr. President, I rise today to share an incredible story about a community working together in the aftermath of a powerful storm in Billings, MT.

The storm that occurred on Father's Day spawned at least one tornado that touched down in Billings Heights, blowing apart several businesses and one of the city's most familiar buildings.

If my colleagues will take a look, this is a picture of what the inside of Rimrock Auto Arena looks like today. You can see the tornado ripped off the roof. Thousands and thousands of folks have memories from inside this building, from concerts to sporting events to graduations.

This picture was taken by Larry Mayer, a photographer for the Billings Gazette. Minutes after the tornado tore through, emergency responders, as my colleagues can see, arrived on the scene to keep folks away from the debris in the streets.

The wind twisted guardrails around light poles. The rain turned streets into rivers. Golf ball-sized hail came crashing down.

In our part of the country, we are used to extreme weather—subzero cold, drought, snow, and severe thunderstorms—but a tornado tearing through the middle of Montana's largest city is pretty darn rare. Through it all, only one minor injury was reported, and that was due to hail.

While we stand together in support of the folks who lost their businesses and their property last Sunday, we are grateful no one died. Nobody lost their home. I attribute that to a lot of luck and to quick action and smart decisions by emergency responders in Billings and in Yellowstone County.

Immediately after the clouds lifted, officers kept onlookers out of harm's way. More than a dozen National Guardsmen immediately secured the area, answering a late night call on Father's Day. News reporters went to work sharing the story. Unelected leaders, from councilmen to commissioners, buckled down to hammer out the next steps.

This week, people across the country opened their newspapers and turned on their TVs to see the incredible pictures from Billings, MT. They saw what happens when a community works together in the aftermath of a storm such as this. Everyone lived to share their story, and the community grew stronger because of it.

It is not just Billings that felt the force of wild weather this last week. Further north, the community of Rocky Boy's Indian Reservation is still trying to tally up the damage after a powerful rain storm last Thursday night. In the nearby Bear Paw Mountains, there is word that water wiped out entire roads. Dozens of families in the area were forced out of their homes, and roads were destroyed.

Last week, a microburst destroyed a home near Froid, MT. Ramona Ryder, the woman who lived in a residence there, died in that storm.

Of course, Montana is a State where agriculture is not just the top industry, it is the livelihood of thousands of families. Weather takes its toll on crops and soil and irrigation. But over the past week, we have seen unusual weather across the Big Sky State, and we can expect more of it. From farmers to tribal communities to folks who live in Montana's biggest cities, it impacts everyone.

Now we begin the process of rebuilding the businesses and the familiar buildings destroyed by these storms.

I ask the Presiding Officer and all of my colleagues to stand with me to offer any support we can to the Billings and Rocky Boy's communities and to those folks up in the Bear Paw Mountains and especially to the folks who have to start from scratch because, as we know all too well in Montana, it takes working together to rebuild, and we will become stronger.

With that, Mr. President, I yield the floor. I suggest the absence of a quorum, and I ask unanimous consent that the time during the quorum call be divided equally between the Democrats and Republicans.

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. CARDIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

HAMAS IN GAZA

Mr. CARDIN. Mr. President, I rise today to speak about the current situation in the Gaza Strip.

In 2007, Hamas, a State Department-designated foreign terrorist organization, forcibly seized control of Gaza. Hamas continues to refuse to recognize Israel's right to exist and, in fact, has perpetrated terrorist attacks against Israel, launching countless rockets from Gaza into Israel.

Hamas calls for the elimination of Israel and Jews from Islamic holy lands. No Hamas leader has publicly expressed a willingness to disarm or to stop attacks on Israel and Israelis.

Israel, like every other country in the world, has a right to defend itself. With a sworn enemy on its border, Israel must protect her citizens against potential attacks every single day. Under the blockade, Israel directs ships to the port of Ashdod, where they are inspected for arms and other dangerous items before Israel allows off-loading and assists in the delivery of legitimate goods to Gaza.

We know that Israel's concerns about arms transfers to Gaza are legitimate because both weapons and raw materials are smuggled into Gaza through tunnels from the Sinai in Egypt. Thousands of rockets and mortars have been fired from Gaza into Israel over the last decade.

Just last week, Israel has shown signs of compromise, announcing its intention to ease the blockade and allow more civilian goods and humanitarian aid to enter the Palestinian territory by land, including construction materials for civilian projects.

It is important to note that Hamas has made no such compromises and continues to maintain its vehement and violent stance against Israel's existence. Hamas also continues to endanger Gaza's civilian population by using hospitals, schools, mosques, and residential neighborhoods as command and operations centers or as weapons storage facilities.

While Hamas claims to be the popular representatives of the Palestinians in Gaza, their actions show that they hardly care for the plight of the average Gazan, as their rule deprives their own people of a transparent democracy, civil rights and freedom.

The best way to ameliorate that and to fix the broader current crisis and prevent future ones, of course, is Israeli-Palestinian peace and the creation of an independent Palestinian state that lives side-by-side with Israel, providing security and economic stability for the Palestinian and the Israeli people.

Today, it is Israel that continues to acknowledge the necessary framework for any peace agreement.

Israel has shown willingness for direct negotiations, but the Palestinians continue to insist on proximity talks. Israel is seeking to make peace with a partner whose parliament is controlled by Hamas, an organization still sworn to the destruction of Israel.

The only way to achieve peace is for Hamas to give up its militancy, forego terrorism and violence against innocent civilians, recognize Israel's right to exist and become a legitimate partner in Palestinian institutions. The more than 1 million Palestinians living in Gaza deserve that, the millions of Israelis who are subject to Hamas rockets and terror deserve that and frankly, the world deserves a stable, secure Middle East.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. ENZI. Mr. President, before coming to Washington, I ran a shoestore in Gillette, WY. I stocked the shelves. I worked with customers to fit them with shoes. I ran the cash register. I placed the orders with suppliers. I swept the floors. I cleaned the toilets. I did the bookkeeping. In short, I was a one-man show. That is not quite accurate. My wife was there, and we had a couple of clerks. We all had the same responsibilities. My wife helped and actually grew the business while I was mayor of Gillette. We were a one-family show. I know firsthand the struggles and challenges America's small businesses face. We faced them on a daily basis. That is why I am so concerned about the recent action by the Obama administration.

Earlier this week, the administration published a 121-page interim final rule that will have a major negative impact on millions of small businesses across the country. This new rule, which implements just two pages of the health care law pertaining to grandfathered health plans, will increase the costs these businesses will pay for health insurance. This new rule violates the President's repeated promises from last year and the year before that under the new health care law, if you like what you have, you can keep it.

A chart on page 54 of the rule states that the Departments of Treasury, Labor, and Health and Human Services estimate that between 39 and 69 percent of the businesses will lose their grandfathered health plan status. This means these businesses' health plans will not be able to keep their current plans but, rather, will be required to comply with one of the expensive mandates included in the new law. This will, in turn, drive up the costs for these plans, making them even more unaffordable for small businesses. As a former small business owner, I understand how small businesses are struggling every day to find the resources to provide health insurance to their employees. Rather than making it easier for these businesses to continue to provide this coverage, the new regulation will actually make it more likely that employers will simply drop their health insurance coverage altogether.

I have a copy of the chart to show the folks back home. This chart shows the administration's own estimates, which indicate that only about half of Americans will be able to keep what they have. The picture, of course, is even worse for small businesses. Health and Human Services estimates that by 2013, up to 80 percent of small businesses could lose their grandfather status. The plans that do lose their grandfather status will have to abide by a whole slew of new Federal mandates, many of which have not even been written yet.

These are the low estimates of how many people are going to take it again. This is a midrange estimate by the administration and then a high estimate for small employer plans, large employer plans, and all employer plans. The low-end estimate is 49 percent of them will have to go to something different if they cannot be grandfathered, the midrange estimate is 66 percent, while the high-end estimate is 80 percent of small employer plans will have to give up what they have right now because there are more federally mandated requirements they have not been meeting. In my home State, more than 50 percent of the people will have to change to a different insurance. I have to tell you, almost all of them who have insurance are happy with the insurance they have and really thought they could keep what they have if they like what they have. This chart shows that is not going to be the case.

During my days as a shoestore owner, I would not have had the luxury to read a 121-page interim final rule and try to determine what I needed to do to keep my health insurance plan. And if my small business was one of the 80 percent of small businesses that the administration thinks will lose their current status, then I would be forced to pay for a lot more coverage.

One of the most disturbing aspects of this new rule is it will actually make it harder for employers to make changes that could hold down the cost of their health care. Once this interim final rule becomes effective, which will be July 12 of this year—less than a month from now—large and small businesses will have few options for both keeping costs in check and maintaining their grandfather status. If an employer does any one of the following things to manage their costs, they lose the health care they have: If they eliminate any benefits, they lose their grandfather status. If they increase coinsurance rates, they lose their grandfather status. If they increase deductibles or out-of-pocket limits beyond minimum levels, they lose their grandfather status. If they increase copayments beyond minimum levels, they lose their grandfather status. If they decrease the employer share of the premium by more than 5 percent, they lose grandfather status. If they add an annual limit or decrease the lifetime or annual limit, they lose grandfather status. If they change their health insurance carrier, they lose their grandfather status.

Which is the most important one of those? The very last one. If they change their health insurance carrier, they lose their grandfather status. The only way you have a chance of holding those costs down is to bid out the insurance. It made a huge difference in our business. The first time we bid it out—and we were several years staying with the same company and having very huge increases—the first time we bid it out, we found out we could save very substantially, and so we bought the lower bid insurance.

Then the company we had been dealing with for several years came to us and said: Why did you change?

I said: We got a much lower price.

They said: Why didn't you come back to us and ask for a lower price?

I said: That is not the way we sell shoes; that is not the way you should sell insurance.

If they change their health insurance carrier, they will lose their grandfather status even if they provide the same things the other one was providing, which is what you do in a bid. In an attempt to keep health care costs down and avoid having to do the other things we mentioned, you would lose your grandfather status. In short, if employers do anything to help slow the growth of their health insurance costs, they will lose the limited protections against the expensive new mandates in the bill.

It is worth noting that 2 pages in the law—just 2 pages; it was 2,700 pages, but 2 pages are causing all this—that create the grandfathered plans are a blank slate. The law does not say anything about cost-sharing requirements or coinsurance rates.

The administration made up all these provisions and requirements. They did not have to write these rules that preclude half of Americans from keeping what they have. The reality is that the administration does not want you to keep what you have. They certainly like that talking point—it keeps people from getting very nervous—but they do not actually want you to keep what you have. They do not want grandfathered plans to exist. They want to force all Americans to buy only insurance plans that are defined and approved in Washington. It is just one more Washington takeover.

Throughout the rule, the administration makes the assumption that a large number of plans will place a high value on the remaining grandfathered plans. Why do they make this assumption? Because the administration recognizes that employers realize the mandates and burdens included in the health care bill will drive up premiums and drive up costs for large businesses, small businesses, and individuals. The Congressional Budget Office estimates that costs will increase 10 to 13 percent for Americans purchasing coverage on their own. That represents a $2,100 increase for families purchasing coverage.

Page 112 of the rule lists the 13 new mandates included in the health care law that do not apply to grandfathered plans. However, based on the administration's own calculations, it looks as if 39 to 69 percent of employers will now be forced to comply with these new 13 mandates when they lose their grandfather status.

Even for the small number of plans that manage to keep their grandfather status, the reality is that the new law will still impose expensive new mandates that will increase their costs. The new health care law requires all plans, including grandfathered health plans, to comply with certain provisions in the new health care law. Page 112 of the interim final rule has five

sections detailing the new mandates that apply to grandfathered health plans for plan years beginning on or after September 23 this year. Another section becomes effective in 2014.

This bill was sold as letting people keep what they have, but the devil is always in the details. Do a little digging and it is clear that Americans will not be able to keep what they have.

I would like to read a paragraph from page 112 of the regulation. It says:

Provisions applicable to all grandfathered health plans. The provisions of Public Health Service Act section 2711 insofar as it relates to lifetime limits, and the provisions of Public Health Service Act—

And it lists several of them—

apply to grandfathered health plans for plan years on or after September 23, 2010. The provisions of Public Health Service Act section 2708 apply to grandfathered health plans for plan years beginning on or after January 1, 2014.

This means health plans are now prohibited from having lifetime limits on the dollar value of benefits for any participant or beneficiary. Even though this section becomes effective after September 23 of this year, the Department has not issued any regulations or guidance telling plans how to implement this new requirement.

Section 2712 says that health plans shall not rescind such plan or coverage, except that this section shall not apply to a covered individual who has performed an act or practice that constitutes fraud or makes an intentional misrepresentation of material fact. We have not seen any guidance or regulations on that section either.

Section 2714 says that all kids under the age of 26 can stay on their parents' health insurance policy. This popular provision got a lot of attention from the media and the administration. Because of the popularity, this is one area where the administration has actually written an interim final rule which becomes effective July 12 this year even though the comments are not due until August 11 of this year. The final rule goes into effect July 12, but the comments are not due until August 11. In other words, they are not going to read any of the comments before that goes into effect.

In the rule, the administration includes an analysis saying that this provision is expected to increase premiums by 1 percent. That might not sound like a lot on its own, but remember that this is only one of the six provisions with which all health plans, even grandfathered plans, will be forced to comply. If each of the other five provisions also drives up premiums by similar amounts, that would equal a 6-percent increase on top of whatever increase results from normal medical inflation.

Section 2715 says all plans must give enrollees a government-approved summary of benefits and coverage explanation describing the benefits included in the plan.

The interesting thing about this section is that Secretary Sebelius has until next March to publish the standards the plans have to use when they draft these documents, but the plans have to give their enrollees the documents this September. How is that possible? If plans do not have these documents ready, they can be fined up to $1,000 per enrollee. The standards will not be ready until next year, but the plans have to comply this year or face a $1,000-per-enrollee fine. Common sense rode a horse right out of Washington. Maybe it was never here to begin with.

Section 2718 says all plans for big businesses have to spend at least 85 cents out of every premium dollar they get paying claims, and plans for small businesses and individuals have to spend at least 80 cents out of every premium dollar they get paying claims. This may sound like a good idea, but, again, the devil is in the details.

The National Association of Insurance Commissioners is responsible for defining the terms used in these calculations and coming up with some recommendations about how to implement this section. The Secretary asked them to make these recommendations earlier than when the law says, but they have been having some difficulty. The difficulty is that States know that implementing these provisions will put health plans out of business—out of business. When the plans go out of business, the Americans enrolled in these plans will lose their coverage. This is a real problem with which the insurance commissioners are grappling. Unfortunately, Republicans warned our colleagues on the other side about this problem last December but we were ignored.

Section 2708 becomes effective in 2014 and says that plans cannot apply waiting periods that exceed 90 days. Again, this provision sounds like a great idea, and some States are already doing this, but this is one more thing that will drive up costs.

No single raindrop thinks it is responsible for the flood. These provisions may sound like good ideas when looked at by themselves but, when taken together, they drive up premiums to the point health care is unaffordable.

All these sections I have been talking about are mandates that apply to all plans, even grandfathered plans. There is a whole list of mandates that do not apply to grandfathered plans but apply to the new plans. Page 112 of the rule. I would refer you to that. I won't read it here. It has a lot of references again, and even though these sections aren't supposed to apply to grandfathered plans, as this rule points out, about half of all Americans will lose their grandfathered plan and they will be forced to buy a plan that includes the additional mandates.

But if you are enrolled in a union health plan, have no fear. Different rules apply to you. The administration's favorite special interest group gets special treatment under this rule. This is exactly the kind of political cynicism this administration campaigned against 2 years ago. Page 48 of the rule says:

This estimate does not take into account collectively bargained plans, which can change issuers during the period of collective bargaining agreement without loss of grandfather status.

Keep reading, because page 50 says:

For fully insured group health plans, another change that would require a plan to relinquish grandfather status is a change in issuer.

The bottom line: Big labor can change issuers, but small businesses cannot change issuers. The ability to change issuers is something that keeps insurance companies competing against each other to see who can offer the best product at the lowest price.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ENZI. I ask unanimous consent to speak for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. I thank my colleagues.

The ability to change issuers is something that keeps insurance companies competing against each other to see who can offer the best product at the lowest price. Take that competition away, and prices will go up—for everyone but union plans.

The simple truth is, because this new rule will drastically tie the hands of employers, few employers are expected to pursue grandfather status. That means more than half of Americans who like what they have won't be able to keep it. As I said earlier, this is not a mistake. This is exactly what the President and the majority controlling Congress want. They want all Americans to be forced to buy the kind of health insurance they think you should have. Never mind that you can't afford it. Never mind that employers faced with the choice of either paying for health insurance or paying a new penalty will be less likely to hire new workers and will probably even lay off workers. Simply put, this rule States: Washington knows best. Never mind the President promised Americans who like what they have can keep it. This new rule is pretty clear: If you like what you have, you can't keep it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that we continue in morning business and that Senator BROWN of Ohio and myself be allowed to engage in a colloquy for the next 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ESTATE TAX

Mr. WHITEHOUSE. Mr. President, Senator BROWN and I have come to the

floor today to talk about the estate tax. Today's discussion was prompted by a recent New York Times report that an estate of a Texas natural gas tycoon—Mr. Duncan of Houston—is worth $9 billion. That is a nine with nine zeros after it. It is a big number, and it is going to go without tax to his heirs. Without any tax at all. It is hard to know what his tax planning is, but if the ordinary rates applied, the tax that would be paid by this estate might be as much as $4 billion.

I think it is important to put that in counterpoint with the discussion we have been having on the floor today, where our friends on the other side of the aisle are blocking unemployment insurance for Americans who, through no fault of their own, lost their jobs. Because of what Wall Street did to wipe out the economy, they are out there on their own. They can't find work. In Rhode Island, we have 70,000 people unemployed in our small State. Our unemployment rate is 12.3 percent. And if you don't have unemployment insurance to protect you at a time such as that, you are stuck. Unemployment insurance goes to pay for food. It goes to pay for gas in the tank, to look for the next job. It goes to pay for shoes for your children. It goes to pay for clothing and rent and heat or electricity—all the basics. They are blocking it. They are blocking it because it is not paid for, as if this were not an emergency.

But they are perfectly happy—in fact, we haven't heard a peep out of them—with the Duncan estate going tax free to his heirs. I don't know how many of them there are, but if there are any less than nine, they all just became billionaires, tax free. That is the kind of contrast that is so remarkable about this building. We have an entire party that is dedicated to preventing working people, who have lost their jobs through no fault of their own as a result of this economic meltdown, from getting unemployment insurance, and that has actually already expired and we are trying to backfill it for that period, but they are completely satisfied with an oil tycoon worth $9 billion having his estate go completely tax free to his heirs. That situation is happening because of a glitch in the Tax Code that we could not fix. It is part of the Bush tax cuts having run to their conclusion.

The estate tax goes back to 1789 in its first incarnation. It has been permanent since 1916. John D. Rockefeller paid estate taxes in 1937 when he died. He was taxed at a 70-percent rate. Today, we are having a debate about whether we should continue at a rate of only 45 percent. The Duncan estate went through at zero percent.

This cut, which took $4 billion out of the economy to pay this one family with a tax-free estate, was pushed through by the Republicans using reconciliation. If you have been listening on the floor, you have heard a lot of critique about what a terrible procedure reconciliation is when it is used to do anything to help regular Americans. But when it comes to cutting the estate tax so that the Duncan family can have a $9 billion estate pass tax free, well, that is a perfectly fine use of reconciliation, according to our Republican friends.

At this point, at exemption levels of $3.5 million per individual, $7 million per couple, only a few thousand estates each year pay any estate tax at all. It is a tax that only hits not the rich but the superrich—the billionaires, such as the Duncan family. And while we are in this period of economic turmoil, while we are in this period where one party is trying to keep regular workers from getting access to unemployment insurance in the middle of this economic disaster, they are all for an unpaid-for zeroing out of the estate tax so that a $9 billion estate passes completely tax free.

I think that is wrong. I think it shows priorities that are completely topsy-turvy—completely upside-down. I know that Senator BROWN wanted to join me, and I have gone on for a bit, so I will quiet down for a second so he can be heard. But it is immensely frustrating that that is the priority around here—let the working family lose the basic paycheck that holds the family together but have the billionaires get $9 billion tax free.

Mr. BROWN of Ohio. I thank Senator WHITEHOUSE for his comments. As Senator WHITEHOUSE said, I have been in this body only since January of 2007. Most of the damage from the estate tax was done prior to our being here. But I spent some years before being elected to the Senate in the House of Representatives, and anytime we talked about the estate tax in the House, my Republican colleagues would use two terms. They would talk about the ''politics of envy'' and they would talk about ''class warfare;'' that Democrats were envious of success and that we were engaging in class warfare, wanting to turn one social class against another.

But the issue here isn't any strong desire for us to engage in retribution against anybody or any class envy. The situation is this, and let's start with this chart. This is a percentage of estates subject to tax. The estate tax, which the Republicans called the ''death tax,'' does not impact 99.3 percent of people who die in this country. Their families pay zero estate tax. It is only, as Senator WHITEHOUSE said, the absolute mega superrich. It is not people worth just a few million but only seven-tenths of 1 percent. That means it is 7 out of 1,000 who will pay any estate tax at all. And so this issue—not aimed at any one person—raises the question of: What do we do instead?

The Duncan family—this is Mr. DUNCAN, whom Senator WHITEHOUSE talked about—died with $9 billion, and his family pays no estate tax whatsoever. Senator WHITEHOUSE pointed out that if there are fewer than nine members of that family, they all woke up the next morning certainly very sad about their father or their uncle or their brother, but they also woke up as billionaires the next day, and our condolences go out to that family, but something has to replace this. If the estate tax was where it should have been, he would have—his family would have—paid the Federal Government $3 billion or $4 billion.

What does that mean? It means that during this previous Congress—the 2002 and 2003 Congresses—when the Bush administration ran up this huge debt, with tax cuts for the rich, not paid for but passed on to our children and grandchildren; the Iraq war, not paid for and passed on to our children and grandchildren; the giveaway to the drug and insurance companies in the name of Medicare privatization, passed on to our children and grandchildren; and the billions of dollars of cost that was added to the bill, this would have helped pay for some of that.

The $3 billion or $4 billion that would have been generated by the Duncan estate, where does that money come from? What do we replace that with? We either continue to tax middle-class people in this country too heavily or we cut programs for that $3 billion or $4 billion or we charge it to our grandchildren. And that is what has happened. As Senator WHITEHOUSE said, it is a contrast.

What do we do? We can do as Republicans do: We can deny unemployment compensation; deny COBRA insurance coverage, so people can keep their health insurance; deny Pell grants for people, which could be paid for by this $3 billion or $4 billion, or should we tax more people to pay for it? The Republicans didn't care about the budget deficit when it was the Iraq war. They didn't pay for the Iraq war. They didn't care about the budget deficit when it was the giveaway to the drug companies. Now all of a sudden they do.

This is the face of people we deal with. This is a General Motors auto worker in Lorain, OH, somewhere near Dayton, where this GM plant closed in the last 2 years. These workers waiting here are losing their unemployment insurance because people on the other side of the aisle—our Republican colleagues—simply would rather protect the super wealthiest people in our society—they would rather protect these seven-tenths or 7 out of every 1,000 people—and helping them pay no taxes, rather than taking care of this unemployed worker. That is the tragedy of the choices they have made.

Those contrasts, as Senator WHITEHOUSE said, are very clear, between Republicans wanting to protect the superrich and Democrats wanting to make sure that unemployment compensation is extended. These are human beings, each with a story. You can bet in this crowd some of these people not only lost their job but they lost their insurance, and some of them have lost their home as well. Because I

know what has happened in the Dayton area, in Miami Valley. Far too many people have lost their homes.

So while the Republicans are trying to protect the Duncan estate, with billions and billions of dollars in that estate, people such as Senator WHITEHOUSE, Majority Leader REID, who is on the floor, and Senator KAUFMAN want to see us take care of the unemployed workers, take care of those who have lost their insurance, take care of those who are faced with foreclosure because of the economic situation. As Senator WHITEHOUSE said, these people didn't choose to be in this situation.

As Warren Buffett said in 2007:

> The average American went exactly nowhere on the economic scale in the last 20 years. They have been on a treadmill while the super rich have been on a space ship.

That is exactly what happened in this country. The wealthiest people have done better and better as their tax rate went down and down. Those middle-class kids who need Pell grants, the middle-class families who lost their jobs who are now on the unemployment line, those workers who have lost their insurance through no fault of their own—they lost their jobs—they are on this downward spiral which simply is not what our country stands for.

Mr. WHITEHOUSE. Two points I would like to make. One is echoing what Senator BROWN just said. We always hear about the debt and the pay-for from the other side when it is convenient, when they are trying to stop something the administration wants to do. When it helps regular people who have lost their jobs through no fault of their own, then it becomes an international incident if it is not paid for. But when an estate of $9 billion is allowed to pass tax free because of a loophole, that is OK. That is a $4 billion unpaid-for loss to the government, through its revenues. That is just fine.

There is a disconnect there. If you are serious about the deficit, you have to be serious about it when it is billionaires and not just serious about it when it is regular working families. There is a one-sidedness and a convenience for their concern about the deficit. When it is their President in the White House, Katey, bar the door. By my calculation they blew $9 trillion during the Bush administration. Now they suddenly have had an epiphany about debt, but it does not quite extend to billionaires who are allowed to pass their estates through tax free. So much for the debt and the pay-for concern.

The other group they are very concerned about all the time is corporations. In this year, corporations have paid less tax compared to humans than ever before, since 1983, where there was a glitch and corporations paid less taxes relative to what humans pay than now. But other than that, 1 year, 1983, more than a quarter of a century ago, corporations are paying an all-time low in taxes compared to what humans pay.

If you go back, it is 70 years—1983 was just a 1-year exemption. So all this battle has driven down tax rates for corporations, tax rates for billionaires, and here we are with a deficit and they do not care about the billionaires.

I will close. I see the majority leader on the Senate floor, and I do not want to take time. I will close. America is a place of which we are very proud. It is the greatest country ever. It is a place where people can get fabulously rich. Not only is it a place where you can get fabulously rich, when you get fabulously rich you can still live a relatively normal life. You don't have to live like some Third World thug behind armed guards driving around in convoys with armed SUVs. You can live a normal life as a very rich person.

Everybody has a chance to get rich. Everybody has a chance to become a millionaire, a multimillionaire, a billionaire. But when they do, they have to pay their share.

The PRESIDING OFFICER (Mrs. HAGAN). The time of the Senator has expired.

Mr. WHITEHOUSE. I thank the Chair.

CONCLUSION OF MORNING BUSINESS

Mr. REID. Madam President, the time for morning business has expired; is that right?

The PRESIDING OFFICER. The majority leader is correct.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I appreciate very much the understanding of my friends who have been here waiting to talk for several hours. I also announce that one of the reasons we are waiting is to determine if we need to have votes tonight. Everyone has been notified that we might have to have votes tonight, but it appears at this stage we will not. I have been in contact with the Republican leader and his staff. I think we will continue working through the night on some issues we are trying to deal with and worry about votes tomorrow.

I ask unanimous consent the Senate now proceed to a period of morning business for 2½ hours, with the time equally divided and controlled between Senator STABENOW and the Republican leader or his designee, with Senator STABENOW controlling the first 60 minutes and the Republican leader or designee controlling the next 60 minutes, with Senator STABENOW controlling the final 15 minutes; further, that during the controlled period of time, Senators be permitted to enter into colloquies and at the end of the controlled time, the majority leader be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan is recognized.

UNEMPLOYMENT BENEFITS

Ms. STABENOW. Mr. President, I rise to speak on behalf of nearly 1 million people who have lost their jobs, who have now also lost their unemployment insurance benefits because of the extensive obstacles and objections that have been put forward in the Senate to extending this important program. I wish I could say this was the first time that had happened. It seems that every time we come to the floor in the middle of these very difficult economic times, even though things are getting better, every time we come to the floor on behalf of people who are out of work, who want to work, who have worked their entire lives but at this point can't find a job, all we get are objections and delays and weeks and weeks and weeks of people sitting on pins and needles, holding their breath, trying to figure out what is going on: Will they have the ability to pay the rent, the mortgage, put food on the table, be able to care for their kids while they are looking for work. Here we are, right back in that very same position.

Right now we have over 15 million people who are on unemployment benefits. That doesn't count those who are working part-time jobs or have fallen off of the system completely because they haven't been able to find a job and have been out of work longer than the insurance benefits will allow. We have 15 million people looking for work, and we are told there are about 3.1 million jobs available. That means there are five people looking for every one job opening. This is not a situation of people not wanting to work. In the State of Michigan, we know how to work. We work hard. We make things. We grow things. We work hard. Yet through no fault of their own, people find themselves in a situation where we have seen an economic tsunami go through our country, lasting in Michigan longer than any other place across the country. And even as we climb our way out—and it is getting better; we have turned the corner; the economic recovery provisions we have put in place we

know are beginning to make a difference—we still are in a situation, even as we are moving and turning the corner, where there are five people out of work for every one job opening. That is real life for too many people I represent.

We have had legislation in front of us. We have been spending weeks now on a jobs bill, a bill to create jobs, to invest in innovation, to help small businesses, to help manufacturers get the capital they need, but to also, in that bill, help people who don't have a job while they are waiting for all this to take effect, for all of this to work, people who have lost their jobs through no fault of their own, who find themselves in a situation where they are desperate and depending on us to understand what is happening to too many working families, middle-class families, people who never in their wildest dreams thought they would find themselves in this situation but here they are. They want to know that we get it, that we understand what is happening in their lives and that we are not going to play politics or use people who are out of work somehow as pawns in a political chess game that is going on here in the Senate.

The normal unemployment insurance benefits only last for 26 weeks, but thanks to the recovery act, we have been able to bridge the gap for millions of Americans by extending it. That is very important. But we are at a point now where the recovery has not fully been actualized. People are still in a situation where they need to have help on a temporary basis while they are looking for work.

Since this recession started in 2007, there are now 8 million fewer jobs in America, too many of those in manufacturing. I could spend hours talking about fair trade and what we need to do to make sure markets are open abroad for our products to be sold so we are exporting our products, not our jobs, and how we can have a fair trade policy. I am pleased that in the recovery act we have focused on making things again in America, battery manufacturing facilities and the advanced manufacturing tax credit, both of which I was pleased to be a part of leading to create jobs.

We are creating jobs. But it takes time to turn this around. We find ourselves in a situation where nearly 1 million people who have lost their jobs are going to lose their unemployment benefits because of what has been going on here. They don't have time to wait and hold their breath as we continue to work to turn this economy around. These are families trying to make ends meet. They are applying for jobs every day. They are putting in applications. I get e-mail after e-mail—and I will share some this evening—from people who are trying to find work, putting in applications, going back to school. We have all said to them: Maybe you need to go back to school. They have gone back to school to get retraining, but they have to keep a roof over their heads while they are doing that. They have to keep food on the table, keep the electricity on for their families while they are doing that. That is what unemployment benefits allow them to do.

The last time Congress cut off emergency unemployment insurance benefits was after the terrible recession in 1985, when the employment rate was 7.3 percent. Today, 33 States and the District of Columbia now have unemployment that is higher than 7.3 percent. These are red States, blue States, Republicans who are out of work, Democrats who are out of work. It doesn't matter what party one is; if they lose their job, it is an emergency for the family. They expect the Senate to understand that and to act. In 16 of those States, unemployment is still higher than 10 percent. Many States haven't seen this many people out of work since the Great Depression.

When we look at the States where there are more than 1 in 10 people who have lost jobs through no fault of their own, we see a picture that is, in fact, America. I know one of those great States is the State of my colleague who is from Rhode Island. He has come to the floor on numerous occasions to speak about the people of Rhode Island, just as I have come on numerous occasions to speak about the people in the great State of Michigan. I am pleased the Senator from Rhode Island is here.

I yield the Senator up to 10 minutes to speak at this time.

Mr. WHITEHOUSE. Mr. President, I am delighted to be here with Senator STABENOW. I know from the experience of Rhode Island how difficult things are in Michigan. I have seen over and over the passion and energy with which she comes to the floor to argue on behalf of the people of Michigan. I join her this evening on behalf of the people of Rhode Island.

The unemployment insurance obstruction we are getting is simply cruel under the circumstances in Rhode Island. I know my friends on the Republican side like to argue that if we cut off people's unemployment insurance, that will motivate them to get back out there in the workforce where they should be, as if they were just idling around, as if they were not out looking for work.

In Rhode Island, we are at 12.3 percent unemployment. We have been the third or fourth highest unemployment State in the country for months and months now. This is not some sudden glitch in the accounting. This is a persistent economic nightmare in Rhode Island. We have been 15 straight months—more than a year—with double-digit unemployment. If we go back to 8 percent unemployment, we go back 22 months, nearly 2 years. This is a persistent problem. The notion that we will cut off somebody's unemployment insurance and have them go out and find a job is plain nuts in a State such as Rhode Island or a State such as Michigan, because the job just isn't there to be found.

As Senator STABENOW said about Michigan, her folks are hard workers. Rhode Islanders are hard workers. We have a tradition of working hard in a whole variety of industries. There aren't a lot of people lying around enjoying the luxury of unemployment insurance payments. They want to be out getting work. Unemployment insurance payments let them search for work and feed their family, pay the rent, put gas in the car, buy shoes for the kids, put food on the table, all in the meantime. Our colleagues want to take that away.

Let's scroll back for a minute to why we are here in the first place. We are here in the first place because the people who were supposed to be regulating Wall Street were asleep at the switch. The people who were supposed to be regulating Wall Street were asleep at the switch because they were told to be asleep at the switch. It is the Republican theory of governance that regulation should have a light hand and that corporations know better and should really run the show. So the folks who were supposed to be regulating Wall Street were the captives of the big Wall Street financiers. They took all the breaks off. They let them run with crazy leverage ratios, new instruments such as derivatives and collateralized debt obligations, and they went right to sleep, the way they were supposed to. The result was a catastrophic Wall Street meltdown that could have been prevented if there had been a different theory of governance and not the theory of governance that we let the corporations run the show and that is the best thing for Americans.

But that is what happened. They let the corporations run the show. That theory of governance prevailed. There was a massive meltdown. That massive meltdown sent a tsunami of misery across this country into places miles from Wall Street, completely different from Wall Street, including States such as Rhode Island and Michigan. We have 71,000 people unemployed in my little State of Rhode Island. Those people need to get unemployment insurance while the economy recovers. We are not a 4-percent unemployment State or a 6-percent unemployment State. We are not even an 8-percent unemployment State. We are over 12 percent unemployment. There is not a job for these people. To take away the bread and butter, to take basic sustenance off the table is, frankly, unfair. We have even tried to get an extra 25 bucks added to the benefit. Republicans have objected to that.

Mr. President, 25 bucks does not seem like much, and indeed it is not much, but if you are just getting by with unemployment insurance because your State has been in recession for so long, as ours has, that extra 25 bucks is a meal the family does not have to skip; that is a trip to the doctor they do not have to duck because they cannot afford the copay; it is an important

little thing; and it is just symbolic of the attitude on the other side of the aisle that: Sorry, not interested. Tough bounce. We don't care.

We were on the floor earlier talking about how when it is a $9 billion family and there is no estate tax on that because of the way the Republicans have driven this and $4 billion in revenue is lost to the government as a result of this colossal estate being exempted from the estate tax, that is OK. But when it is 25 bucks for a working family to buy a pair of shoes for their daughter, no, that is too much. Now we have to get serious about the recession. Now we have to get serious about the debt. But when it is a $9 billion family with a huge estate, no, different rules apply when it is very rich people.

Well, I am here for people like Dan of East Greenwich. He worked in sales. He has been unemployed since April 2009. His wife is disabled. He is out looking for work, but the jobs are not there, and he has not been able to find one. If he loses his unemployment insurance, Dan has let us know he will be evicted from their apartment. He and his disabled wife will be evicted from their apartment. That should not be happening. That is just bluntly wrong.

Bill of North Kingstown contacted me. He is 56 years old. He has been unemployed since January of 2009. He used to work in engineering. He has now been faced twice with eviction when the unemployment insurance has lapsed, and he is looking at eviction again. It is staring him in the face if we do not act. He has received only $200 over the last 3-week period as his benefits have expired, and he has lost his COBRA benefits, but he needs medication. So he is stuck because we have not acted.

Nancy, from Portsmouth, is 59 years old. She has been unemployed for 21 months. She has a bachelor's degree. She has a whole variety of industry certifications. She has a background in sales and marketing. She is a talented woman who has worked all her life. Until she got swamped by the tsunami of misery that originated on Wall Street and has washed through all of our States, she was fine. But now, after 15 years of working in insurance, she cannot find a job, and she will soon lose her unemployment insurance benefits as the Republicans continue to block the extension.

So I would urge them to reconsider. I understand the point about the debt and the deficit and the spending. But, to me, that does not have an enormous amount of credibility because when President Clinton left office, he left an annual surplus and he left a budget trajectory that the nonpartisan Congressional Budget Office said was going to have us be a debt-free nation by 2008, I believe it was—a debt-free nation.

On the day George Bush was sworn into office, we were on a trajectory to be a debt-free nation during his term. There was even discussion in economic texts about whether that was really a good idea. He solved that; at the end of his term, we were $9 trillion in debt. We were not debt free. He were $9 trillion in debt, and we had this economic meltdown that required government intervention to protect people, and that made it even bigger. But we would have none of this if it had not been for the Republican debt orgy they went through—fair-weather debt, I would add, an orgy of fair-weather debt—and then a huge hole because of their theory of governance and their theory of economics that has had to be filled in because of that tsunami of misery. That is why we are here. So it is a little late in the game and a little disingenuous to hear lectures from that side of the aisle about economic sobriety after that wild spending through those Bush years and the cleanup we have had to do since then. And these guys who are out of work and who need the help—folks such as Ron, Bill, Dan, and Nancy—should not be paying the price. We should take care of the people who are out of work through no fault of their own.

I thank Senator STABENOW.

I yield the floor.

Ms. STABENOW. Mr. President, I thank Senator WHITEHOUSE very much for his passion, his leadership.

Just to emphasize what the Senator was talking about on the floor in terms of where we have come from, I remember being in the House of Representatives in 1997, I believe, when we voted to balance the budget for the first time in 30 years under President Clinton. It was tough. We had to make tough decisions, but we did that, and we were on a trajectory so that by the year 2000—when I was elected to the Senate in 2001 and came into the Budget Committee—the big debate was what to do with the biggest surplus in the history of the country. We saw that big surplus, during the 8 years of President Bush, go red with red ink, down, down, down, down, so much so that when President Obama came in, the job loss was at about 750,000 jobs a month. We were losing 750,000 jobs a month. So we went to work and we focused on people in the middle class, on innovation and investing in businesses and creating opportunities and so on, and these numbers now, on jobs per month, have gone from a negative now up to a positive.

The challenge is—we are not done yet—do not stop what we have been doing. This jobs bill on the floor is to get us to a point where those numbers keep going up and up and up, so everybody who wants to work can work. We have turned this around in terms of job loss. The numbers are going up. But it is not enough. We are not there yet, and too many people are caught in the middle. In fact, even though the numbers are better and we are moving in the right direction, we still have five people out of work for every one job opening.

In a moment, I am going to ask for unanimous consent. I will let my colleagues on the other side of the aisle know that I will do that in about 5 minutes, to give them a heads-up. But in the meantime, I want to read a few letters and then turn things over to another colleague from Oregon who cares passionately about this.

I want to share with you what have been literally thousands of e-mails and phone calls we have been getting from people in Michigan. I go home every weekend, and I am constantly talking to people who find themselves in very tough situations—people who have never been out of a job before in their lives, never, and now they are in their fifties and trying to figure out what they are going to do, and they find themselves in a situation where they are having to depend upon unemployment benefits, which is the last thing they have ever wanted.

Judith from Taylor:

> Both my husband and I have been unemployed for over a year now. We have been trying desperately to find work and haven't even gotten call backs for jobs we have applied for. It has been frightening and discouraging but we keep trying.
>
> Because of our situation, we have been forced to sell our home and we will be closing this month, at a considerable loss!

That is the other piece of this. It is not just about a job. The next thing is you lose your house, and then the ripple effect goes from there.

> The bank we have our equity with has refused to settle and has told us they reserve the right to come after us for the balance. We will be having to break into our retirement funds again with penalty. On top of all this, our youngest son, Nathaniel, is a combat medic with the 101st Airborne and will be one of the 30,000 that are being deployed to Afghanistan. Needless to say, my husband and I are on overload!! Please help the unemployed workers in Michigan by extending the emergency funds. PLEASE don't leave so many people literally out in the cold.

That is what is happening. That is what is happening right now by these efforts to block, to say no. We have come to the floor multiple times on individual bills to extend unemployment, plus the two times now we have voted to stop filibusters on the jobs bill. All we get from the other side is no, no, no. As my friend from Rhode Island said, when we get to the estate tax, it will be yes, yes, yes. And it will not matter where the funds come from, if they add to the deficit—oh, no, not for the few hundred people in our country who are the wealthiest.

When somebody is out of work, that is something different. When somebody is out of work, we have a set of rules that say: No, this is not an emergency. We have always said it is an emergency, with emergency funding. This is not an emergency? Well, I tell you what, when 15 million people are out of work, I would consider that an emergency. That is as much of an emergency as a flood, a hurricane, anything else we have seen in this country. Tens of millions of people out of work is an economic emergency and deserves emergency status here in this body.

Let me share one other story before asking unanimous consent. Michele from Suttons Bay:

I am a 50-year-old journeyman carpentry foreman who was laid off by a small construction company in December 2008 after 10-plus years with them. I have been looking for a full-time job ever since. I went through the state's retraining program last summer and am now a BPI certified energy efficiency auditor. But I can't afford to buy the equipment to start my own business. And no companies are hiring energy efficiency auditors right now. I have been looking for any kind of work that allows us to pay the mortgage and our other very basic bills.

My wife has a full-time job in retail. We have two sons—one is 16, and the other is 12. We have been surviving with the aid of my unemployment [insurance]. I have already gone through the state unemployment benefits, and I am now in the second period of [the] federal . . . program.

Please don't forget about us.

Well, that is what this is about this evening. That is what the legislation is about that we are focused on. That is what all of our efforts are focused on—jobs, creating good-paying jobs, partnering with business, manufacturers, small businesses, creating the atmosphere for private sector jobs, and remembering the people who, through no fault of their own, cannot find work today.

UNANIMOUS CONSENT REQUEST—S. 3520

So, Mr. President, on behalf of the close to 1 million people right now who have lost their jobs and are now losing their unemployment benefits, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3520, the Unemployment Extension Act of 2010; that the bill be read a third time and passed, and the motion to reconsider be laid upon the table with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Senator from South Dakota.

Mr. THUNE. Mr. President, reserving the right to object, I offered an amendment a week ago during the debate on the extenders legislation that is still on the floor of the Senate that would have paid for all the things the Senator from Michigan would like to see paid for, and we have things we need to do, such as unemployment insurance, an extension of that. We need to deal with the issue of these expiring tax provisions.

What we would do is simply say we start paying for things around here. So I offered an amendment that would do that. It was defeated here in the Senate. But at 8:15, I intend to come back here and offer that again as an alternative because I think probably everybody in the Senate agrees we need to address the concern of people who are unemployed in this economy, but we should do it in a way that is fiscally responsible. That is what my amendment will do. So, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Ms. STABENOW. Mr. President, before I yield to my friend from Oregon, let me say the question before us is whether we take dollars from a jobs bill, from a Recovery Act, where we are creating jobs right now, which is what has been proposed over and over—that we basically take it out of one pocket and put it in the other. We want to make sure we are creating jobs and allowing the recovery—or what has been called the stimulus—to be able to work to do that, and it is beginning to do that. So taking dollars out of that pocket, which is what has been proposed by the other side of the aisle in order to be able to address unemployment benefits, doesn't make sense.

I would state one more time: We have always viewed the extension of unemployment benefits in times of economic hardship to be an emergency, just like any other emergency in this country. Our colleagues on the other side of the aisle are refusing to acknowledge that this is an emergency. It is an emergency. When over 15 million people are out of work, it is an emergency, and we should do as we have done under every Republican and every Democratic President. We have called it an emergency. We should continue to call it an emergency, and we should allow those benefits to continue.

I now yield 5 minutes to my colleague from Oregon.

Mr. MERKLEY. Mr. President, we have a chance on the floor of this Chamber to come and debate issues that are important to the success of our families across this Nation. There are some who will come to this floor and they will argue that we should do everything possible to help the most successful; that we should do everything possible to help the most powerful; we should do everything possible to help the wealthiest, those who already have secured the American dream. They have it in their hands.

I come tonight to argue a different case: that we should put our energy behind helping the working families of this Nation, families who are struggling in an economy where jobs have been disappearing left and right; where families are looking for work but there are multiple applicants for each and every job; where someone may be clinging to a job and then losing it when another firm goes under.

I am delighted we have arrested the slide into another Great Depression. We didn't know a year ago whether we were going to see every single month a 1-percent increase in unemployment until we were at 25 percent unemployment or 30 percent unemployment. So we did what we could to break that cycle, and it has been broken. But we remain at a very high level of unemployment—10 percent plus, on average, across this country and much higher in my home State of Oregon. I have Crook County in eastern Oregon, central Oregon, 17 percent unemployment; Harney County, nearly 16 percent unemployment; Deschutes County, 15 percent unemployment; Josephine, 14.5, and so forth.

Folks are struggling. I have been hearing a lot of stories from people back home, and I thought I would share a couple of those stories tonight to put a face on the challenge.

Dear Jeff: I have worked for 42 years and will lose my unemployment benefits after 6 months without your help. I have 3 girls in college and unemployment benefits are helping to keep us current on basic needs. We need your help in the Senate. This is our only lifeline. Please convince your fellow Senators to do the right thing for everyday families and not throw us under the bus.

That is Mike from Happy Valley. When Mike is saying ''don't throw us under the bus,'' he is saying don't spend our time and energy helping the already successful, the wealthy and the powerful; strengthen the financial foundations of our working families.

Before us tonight is a key measure in that, which is the extension of unemployment benefits for families who are working, doing everything right.

Let me share another story.

Dear Senator Merkley: I have now been without unemployment benefits since May 16. I have been unable to buy food, gas, or pay bills. My son is home from college for the summer and I can't provide for him, either. There are essentially no jobs in Central Oregon. I apply daily. I would go to work tomorrow given the opportunity. Thank you.

That is Donald writing to me from Redmond. He has been without the ability to buy food, gas, or pay bills since May 16. Extension of unemployment benefits is a very real method to help families when we are in times of great economic duress.

It is intriguing to me that my colleagues across the aisle want to take away from the job creation efforts to pay for help for those who are unemployed. In other words, they want to create more unemployed in order to pay unemployment benefits.

Let's step back and realize that it is the policies of my colleagues across the aisle that created this economic crisis. They deregulated Wall Street. They allowed the leverage of major financial firms to double in a single year. Bear Stearns went from 20 to 1 leverage to 40 to 1 leverage in a single year. They allowed retail mortgages to become a form of scam upon working families with prepayment penalties and steering payments, which is a very polite term for payments that are made to brokers so they will sell a mortgage that is wrong for the family but which creates a big bonus for themselves.

They allowed the corruption of the most important financial document that is central to building the financial foundations of our families. They allowed Wall Street to put those into securities and poison all of the financial foundations of the firms that bought those securities.

All this built a house of cards that came down, and now they want to take away from job creation as a way of saying: well, we do care about people who are unemployed. We are just going to create more unemployed in the process. The logic of that escapes me.

Kate from Covallis writes to me:

I am 62 years old and was laid off my job a year ago last March.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. MERKLEY. Thank you, Mr. President. It is an honor to come and say we need to do right by working families in America, and we need to not do it by creating more unemployment.

Ms. STABENOW. Mr. President, I wish to again thank my friend from Oregon who consistently has come to the Senate floor to fight for jobs and to fight for people who are looking for work. I thank him very much for sharing those stories.

I now wish to turn to Senator BERNIE SANDERS who has been another champion in this fight.

Mr. SANDERS. I thank the Senator for all she is doing for the unemployed in this country.

I wish to briefly quote from an e-newsletter we sent out from our office which is sanders.senate.gov, and this is what the newsletter said recently in discussing the unemployment situation in Vermont:

Adrian Keyser is one of more than 200 people who applied for eight licensed nursing assistant positions at Burlington's Fletcher Allen Health Care earlier this month. She has been unemployed since November.

Eight jobs, 200 people applying for those jobs. This is what she says:

I have been desperately seeking work. Just so many people are looking for jobs. It's very frustrating. It kind of gets on your self-esteem because you are trying so hard and nothing comes through. I know a lot of people that are out of jobs right now.

As Congress debates whether to extend benefits for the seriously and long-term unemployed, an estimated 23,000 Vermonters were jobless in April. Of those, 6,600, or 29 percent, were unemployed for 6 months or longer, according to preliminary data from the Vermont Labor Department.

Thousands of Vermonters who are looking for full-time jobs are only working part-time. The Labor Department estimates 24,100 are working part time, largely because jobs aren't available.

By the way, the recession has not hit Vermont as badly as it has hit many other States, but we have just heard of a situation where eight jobs were being offered, and 200 people were lining up for those jobs.

I wish to make a point about the priorities of many of my Republican friends, which I don't quite understand. When Senator STABENOW, a moment ago, asked for unanimous consent so that we can provide the desperately needed unemployment compensation for almost 1 million workers out there, there was an objection. The objection was, well, we have to pay for that. We have a large deficit.

I understand we have a large deficit and that we have a large national debt, but what I don't understand is that when it comes to tax breaks for billionaires, my word, we don't have to pay for that.

My understanding is that every member of the Republican caucus without exception voted to repeal completely the estate tax. That would cost the government over $1 trillion over a 10-year period—$1 trillion over a 10-year period—and how was that going to be paid for? Oh, it wasn't going to be paid for—but not to worry.

What Senator STABENOW is talking about now is 1 million workers who are in desperate need of help in order to put food on the table, in order to put gas in the car so they can look for work. On the other hand, when you repeal the estate tax, you are not talking about 1 million unemployed workers, you are talking about the top three-tenths of 1 percent of our population, people who are millionaires and billionaires.

Our Republican friends say: Oh, it is OK. We can give them $1 trillion in tax breaks. We don't have to worry about how we pay for that.

Actually, within a couple of weeks there is going to be another version of providing huge tax breaks for the wealthiest people in this country as another form of repealing the estate tax coming before the Congress. I wonder how much concern our Republican friends will have when that bill comes to the floor about how we are going to pay for that.

Right now, interestingly enough, there is no estate tax. For the first time since 1916, you could be a multibillionaire and your family will not have to pay any taxes when you die. Last month, it turned out that the wealthiest person in Houston, TX, a gentleman named Dan Duncan, became the first multibillionaire to pass along his entire estate, estimated to be worth $9 billion, to his family without paying any Federal estate taxes.

Now, I don't know, I may have missed it, but what that family would have been paying in Federal taxes is probably between $3 billion or $4 billion. That is a lot of money. That can provide a lot of unemployment compensation to workers who have lost their jobs and are living in desperation. Maybe my friend from Michigan, Senator STABENOW, can correct me, but I don't recall hearing any of my Republican friends coming to the floor and saying: Oh, my word.

We have a huge deficit problem. Yet right now billionaire families are not paying any taxes at all for the estate tax—the first time since 1916. I don't know. Did my friend from Michigan hear any great laments about that crisis? No. But when it comes to unemployed workers: Oh, my word, we have to pay for that.

The last point I wish to make is I get a little bit tired of being lectured by our Republican friends for the deficit we are in. Let's go over how we got to the deficit—or a good part of the deficit—right now. I voted against going to the war in Iraq. Most, or all, of my Republican friends voted for it. That war will cost approximately $3 trillion by the time the last veteran gets the benefits he or she is entitled to. They voted for it, but they forgot to tell us how they would pay for it.

During the Bush era, our Republican friends pushed for hundreds of billions of dollars in tax breaks for the wealthiest Americans. They voted for it; I didn't. The point is, please don't lecture us on the deficit that you largely caused.

With that, I yield the remainder of my time.

Ms. STABENOW. Mr. President, I thank my friend from Vermont for his passion. I now yield 5 minutes to the distinguished Senator from Rhode Island, Mr. REED, who is a true leader on this issue. He has been coming to the floor and standing up for working men and women. It is a pleasure always to work with him on this issue.

Mr. REED. I thank the Senator.

Mr. President, I am proud to be here with Senator STABENOW who is leading this effort to remind all of us of our obligations to the most vulnerable Americans—those who have lost their work in this economic crisis, who are looking desperately for work. They have to maintain their families in this very difficult time. Traditionally, we always offer extended unemployment benefits, but memories are too short around here.

Let me take my colleagues back a few years to March of 2002 when the unemployment rate was 5.7 percent and we authorized extended unemployment benefits for 2 years and 1 month. I can't recall any great battles month to month about extending the benefits. I can't recall the ''perils of Pauline'' episodes where, as soon as we finish the 30-day extension, we have to literally begin the debate on the next one because we understand there will be five or six or seven procedural delays built in to prevent us from doing that.

Today, we are looking at, in my home State of Rhode Island, 12.3 percent unemployment. That is the official numbers. The unofficial numbers are much higher because the underemployment rate—people who are working part time, working odd jobs just to get by—adds significantly more people to the under- and unemployed rolls. We have never in this country declined to extend unemployment benefits as long as the unemployment rate was at least 7.4 percent nationally. Today, that rate is about 9.7 percent. We are more than two percentage points above what is traditionally—going back to the Eisenhower administration—the standard of when we can sort of release and dispense with extended unemployment benefits.

By any proportion, we are in the midst of a very serious economic crisis. What we have done routinely is extend unemployment benefits. Yet, we have had fierce opposition. Even in those times when we have been able to extend them, it has been after numerous procedural votes. That was not the situation in other administrations—Eisenhower, Nixon, Kennedy, Clinton administration, and the most recent Bush administration.

The reason, as my colleague from Vermont so passionately and eloquently pointed out, was we have to get hold of the deficit. Well, we are the people who got hold of the deficit. I can recall being a rather junior Member of the House of Representatives and voting for President Clinton's proposal, with not one Republican vote in the House or the Senate. Yet, that policy, together with the monetary policy of the Federal Reserve, resulted several years later in a budget surplus. Then President George Walker Bush walked into Washington with a $236 billion budget surplus. But it weighed heavy. President Bush felt that he had to move that money out as quick as possible through significant tax cuts, which benefited the wealthiest Americans. Part of that tax bill was the estate tax, which has been dispensed with this year—a tax on the books since 1916.

All of that dissipated, undercut the surplus, and now we are in a significant deficit. Add the cost of the war in Iraq and other operations, and the cost of the Part D Medicare entitlement program that left many seniors without coverage—unpaid for, but a huge boon to the drug industry—all of that was on their watch. Now, suddenly, they are deficit hawks again. It doesn't ring true to people out there who are desperately looking for work and need something to support them.

There is also a very pernicious sort of argument that is made—sometimes between the lines and sometimes explicitly—that people want to be on unemployment because they are doing much better, and they are inherently lazy and they want to collect that money. In Rhode Island, unemployment benefits are about $360 a week, or about $15,000 a year. That doesn't buy much in terms of gasoline, in terms of food for your family; and it doesn't take care of those bills, such as a health care bill that comes up, or tuition, if you are trying to send your children to school.

One of the phenomenons today of this economic crisis is that it is not just affecting young workers entering the workforce, or transient workers, those who have a record of working and being laid off; this is hitting at people in their forties and fifties, who have had good, hard, high-paying jobs, relatively speaking, who have a mortgage and are trying to send children to college. That, unfortunately, is the face too often of unemployment today in the United States. Those people want to live on $360 a week, and they don't want to work? I think that is nonsense. We have to extend unemployment benefits. We always have in the past, and we have to do it now.

I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Michigan.

Ms. STABENOW. Mr. President, I yield 5 minutes to the senior Senator from New York, and I thank him for his passionate leadership on behalf of our country.

Mr. SCHUMER. Mr. President, I compliment my friend and colleague, Senator STABENOW from Michigan, not only for putting this together but for being a clarion voice to the American people. She is one of those—and it is sometimes all too rare here—who talks through all the miasma and the fog, and all the barriers, directly to the average American. That is a rare talent and one that she shows repeatedly. I thank her for that.

I want to follow up on something my colleague from Rhode Island just mentioned, Senator REED, which is this idea that people don't want to work, and if we extend their unemployment benefits, we are going to develop a lazy class of people.

Let me tell you my experience. It is not that the rate of unemployment is the highest it has been since World War II, although it is far too high. That dubious honor goes to 1982, when it was 10.8 percent in that recession. The difference with this recession is that people are employed for a much longer period of time and, second, it goes way up into the middle class and upper middle class—people who have worked hard their whole lives.

When I go around my State, I often meet with the unemployed. I make a special effort to sit down and talk to them. I want to share a story or two, in case anybody is unconvinced of the anguish they go through and their desire to find work.

I met a woman upstate named Dorothy, from the Rochester area. She was about 50, not married and spent her whole life in her company. It was her life. She had risen to be the third highest person in the human resources department at Xerox, which had a big plant over in Webster. She lost her job in May of 2008. My guess is—she never said how much she made—it was probably between $80,000 and $100,000 a year—a nice salary. She told me that every day—I met her January 2010, or approximately then—she went online to look for another job—day after day after day. She still had not gotten a job. It was very poignant when she told me, with tears in her eyes, almost dripping down her cheeks—she said that the first thing she did when she woke up Christmas morning was not go to church or to visit her family but, rather, she went online for 2 hours, in the hope that there might be a job that had been posted the night before, Christmas Eve, and no one else would be going online and looking for the job then and she could get first dibs. Is this a lady who is in the habit of laziness, of wishing to get $350 or $400 a week in unemployment benefits? Absolutely not. She is looking every day.

I met a man named Clay. Unlike Dorothy, he was a blue collar worker. He had six children. His wife didn't work. He is the only breadwinner in the family. The children were ages 2 to 14. He had ridden to the top of his trade in the machine tools area. He lost his job in the summer of 2008. He said that here is what he does every week: Sunday night, he gets in his car and drives to Virginia, looks for a job in Virginia on Monday. Tuesday, he goes to the Washington area. Wednesday, he goes to Baltimore. Thursday, he goes to Philadelphia. Friday, he goes to New York City. And late Friday night, he drives home. Then he starts the process again on Sunday night. He still cannot find work. He is desperate for work. He told me that now his children keep asking about the family's livelihood, because he is the breadwinner.

Are we going to cut Clay and his family off? Are we going to tell those children to go on welfare? This is a proud man and a proud family. To cut off benefits will affect 67,000 people in New York State; 60,000 will lose their benefits and another 6,000 to 7,000 will be prevented from moving to tiers. It is wrong. It doesn't look at the problem as is and is virtually inhumane and not part of the great tradition we have established in this country. I hope we will be able to pass this bill. I hope people such as Dorothy and Clay will not be cut off as they desperately look for work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I thank my friend from New York for those very stirring words about the families he talked with. I think all of us can relate to that, as he was talking about someone from New York each day going to a different city and State to look for work.

I go back home every weekend. I go home Fridays and come back on Mondays. I am very frequently now on a plane with somebody who is coming to work in DC—or to look for work—from Michigan. Every week they are going back and forth. People are willing to get on planes to find jobs and to work. People are getting on planes now from Michigan and going across the country. I have talked to people who go from one end of the country to another on an airplane because they want to work. People want to work.

The idea that somehow we should treat this economic recession differently than any other recession in the history of our country—different than any other Republican President or any other Democratic President, any other Republican Congress or any other Democratic Congress, by somehow saying we are not going to categorize it as an emergency—which it is—to make that change, which is what we are talking about here on our side with our colleagues—to make that change, to allow that to happen would be to say to these individuals that we do not understand what is happening in their lives.

I want to take the final couple of moments of my time, before yielding to colleagues, to read a couple more letters. One is from Susan from Grand Rapids, who writes:

My husband has been out of work since September of 2009. His benefits will expire

soon. He has worked all his life, since he was 13 and he had a paper route. He is a veteran. We are 60 years old now. He applies for jobs every [single] day. He has a Bachelor of Science Degree and has worked for the past 20 years in the construction industry. He has had one interview. One. Out of hundreds of jobs he has applied for, not just in Michigan but all over the [country]. Please help us by extending the Federal unemployment benefit. I am frightened that we will lose our house. Sixty year old people should not have to be frightened of becoming homeless [in this country]. This is something you can do right now for hundreds of thousands of desperate people. Not a fix for future but helping the people that are struggling right now.

That is what this is about. Tonight, we can fix this by getting unanimous consent to do what every other White House and Congress has done—to declare that this is an emergency and fund this as an emergency, as we have done year after year after year in this country, given what is happening to millions of people in this country.

We care about the deficit. Some of us have voted to eliminate the deficit, as we voted for balanced budgets and put ourselves into a situation of economic prosperity under the Clinton administration, before it was wiped out in the last administration with deficit spending. But in caring about deficits, it is important to emphasize that we will never get out of deficit with over 15 million people out of work or 20 million or whatever the real number is. We will never get out of deficit with that many people not working and contributing. We will never get out of deficit, which is why we focus on jobs.

We have a jobs bill in front of us. So far not one Republican colleague—not one—has voted with us on this jobs bill to create jobs, to invest to create capital for manufacturers and small businesses, to invest in innovation and, yes, to help those who are currently without a job through no fault of their own. So far not one Republican colleague has been willing to join with us.

We are desperately concerned about the almost 1 million Americans who lost their jobs and now are losing their unemployment benefits. We are simply saying it is time to extend those benefits and to understand what is happening to people all over this country who have worked hard and played by the rules and find themselves in a situation where the world is just tumbling down around them—just tumbling down around them—no matter how hard they are looking and trying to find work.

Claudia from Commerce Township:

I worked hard all my life and this is the first time I have ever had to accept unemployment benefits to help me get by. Believe me, I do not want to be in this situation . . . I would like nothing more than to be working again. I was laid off in January of 2009 from a company that lost multiple contracts with the automotive manufacturers and fell on hard times.

A lot of folks in Michigan are in this story.

I have a great deal of experience in my field of expertise (Human Resources) and I hold a bachelor's degree. I have been looking for a job for the past year. At times, I have been encouraged by success in assessment testing and interviews I've completed, but I always seem to lose out in the end. I have taken classes to brush up on my job search skills and believe I do well with my resume and in interviews. I even enrolled and paid for a course to assist me in getting an HR certification to make me more marketable. However, I am 56, and the fact is that in this economy—

The PRESIDING OFFICER. The Senator's time has expired.

Ms. STABENOW. If I may have 30 more seconds to complete the sentence.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. She said:

I am 56 . . . and employers are opting for the person with a master's degree—or frankly, someone younger . . . I am a hard worker, intelligent, efficient, trustworthy, honest, dependable and upbeat.

Mr. President, these are the folks we are talking about and for whom we are fighting this evening.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I have listened very carefully to my good friend from Michigan. It is puzzling to me to hear her say what she said because she voted against the amendment by Senator THUNE last week which would have extended the expiring unemployment provisions until November and not added a penny to the debt. I want to say more about that in a minute.

What we are arguing about, what the debate is about is we want to extend unemployment insurance. We want to make sure the State and local tax deductions continue. We want to make sure tuition deduction and the various disaster relief credits and the research and development tax credits all stay in place. But we want to make sure it is done without adding to a Federal debt that we believe is out of control.

UNANIMOUS CONSENT REQUEST—S. 3347

Mr. President, before I speak about that issue, I wish to make a request which I hope is a request to which my colleagues could all agree. It is a bipartisan request on behalf of myself, Senator NELSON of Nebraska, and Senator VITTER of Louisiana to extend the Flood Insurance Program in Tennessee.

The largest natural disaster since President Obama took office is the flood of 2010 in Tennessee and a very severe flood in Rhode Island too.

On June 1, the Flood Insurance Program expired. This request I am about to make would permit that to be reinstated so small businesspeople could get flood insurance and get their loans. I will speak more about it in just a minute.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 372, S. 3347, a bill that extends the National Flood Insurance Program through December 31, 2010; that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. I certainly understand the concern about this particular program. This is something I support, and it is, in fact, in the broader jobs bill we have. Hopefully, within the next 2 days, we will get another vote to complete this along with unemployment benefits.

Given the fact that we are still in a situation where we have almost 1 million people whose unemployment benefits are running out and that is not included in this request, I have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. ALEXANDER. Mr. President, I am deeply disappointed. What I have done is ask to extend the Flood Insurance Program so that Tennesseans who are recovering from the worst natural disaster since President Obama took office could qualify for flood insurance so they could get their loans so they could operate their businesses again.

This does not add a penny to the debt. The money is there; the authority to do it is not. If you are in Rhode Island, if you are in Tennessee, if you are in New Orleans, if you are in any other place where you are waiting for flood insurance, you should know that Republicans just asked to extend the Flood Insurance Program so you could buy insurance, and Democrats just objected.

That is a very simple request. It does not add a penny to the debt. It is deeply disturbing to me this cannot be done in a simple way.

Tennesseans have not been looting and complaining despite the fact the flood of 2010, as I said, was the largest natural disaster since President Obama took office. Nashville alone had $2 billion of damage, maybe more than that. There were 45 counties the President eventually declared disaster areas. He declared other counties as disaster areas because of agricultural crops that were washed out. Thousands of homes in Nashville alone—people lost everything in their basements. That means their heating and cooling and all of that equipment. But in many places, in Bellevue, in Nashville, in Millington outside of Memphis, in Clarksville, TN, they lost much more than that. Twenty-nine people lost their lives in this flood—29 people. This was a huge natural disaster.

The President did not ask for extra funds for Tennessee. No one is complaining about that either. FEMA has done a good job with what it has done, but what good does it do for FEMA to be on the site and available, for small business loans to be available, and for flood insurance money to be available, and for Congress to object to a unanimous consent request to allow new policies to be written?

I am deeply disappointed. Let me address a couple of other things I heard said on the floor of the Senate tonight.

I heard some talk about jobs. From our point of view, the American people are concerned about jobs, debt, and terror. That is why the ferment in the country. That is why the people think the country is headed in the wrong direction. Jobs, debt, and terror. We have 10-percent unemployment. If we continue to grow at the rate we grew in the first quarter, we will be at 10-percent unemployment in the last quarter of this year. Jobs, debt, and terror.

Why do we have fewer jobs? Why do we have 10-percent unemployment? The distinguished Senator from Michigan talks about Republican actions, but I am thinking about what the Democrats have been doing the last year and a half. Every step they seem to take talks about jobs but causes us to have fewer jobs. For example, take the health care law which was passed in this Chamber by a purely partisan vote. The health care law taxes job creators and investors. That means fewer jobs.

The financial regulation bill that is being debated today, passing in a partisan way, puts higher tax rates on small business owners. Higher tax rates on small business owners means fewer jobs.

The debt is going up. That is the real argument we are having. We reached $13 trillion. There are various ways to describe what has happened, but one way to describe it is this: All the Presidents from George Washington to George W. Bush ran up a debt of about $5.8 trillion. President Obama, in his two terms—if he has two terms—is going to double that debt all by himself. That is what his budgets say. Doubling the debt in 5 years and nearly tripling the debt in 10 years means less credit, higher interest rates, less capital, and fewer jobs.

The financial regulation bill I just discussed—one can watch it being dealt with during the day on television. If one listens carefully to what is being said, it amounts to a Washington takeover of Main Street credit; another big Washington agency telling banks and credit unions, automobile retailers, and dentists what to do about credit.

What is the inevitable result? They are going to shrink away from providing that credit. It is going to be harder to get a loan, harder to get credit, so this financial regulation bill, which was supposed to be tough on Wall Street, is going to be hard on Main Street because it means fewer jobs.

When it comes to jobs, the difference between our friends on the other side and the Republicans on this side is that we are focused on creating an environment for growing private sector jobs. They are focused on creating more government jobs. About the only place the job creation plans and stimulus plans they have enacted are working are in Washington, DC, where incomes are up and jobs are up. But not in the small towns of Tennessee and not in the small towns across this country, people are out of work. They are out of work because of higher taxes, higher debt, higher spending, too many Washington takeovers, too much focus on more government jobs, and not enough focus on an environment in which to create more private sector jobs.

I mentioned a little earlier there was talk earlier about the unemployment provisions we want to be extended. Senator THUNE will be here in a few minutes to talk about his amendment he offered last week on June 17.

Let's be very clear. The Thune amendment, which every Republican voted for and attracted a Democratic vote but Democrats voted it down, would have extended the expiring employment provisions until November. It would have extended for 1 year dozens of tax provisions. It would have extended the State and local tax deduction, the tuition deduction, the various disaster relief credits, the flood insurance provision that was just objected to. It would increase the payment the government makes to doctors for treating Medicare patients.

The American Medical Association said a little earlier this week that 30 percent of doctors, family physicians, will not see new Medicare patients. This would have taken care of that.

I see the Senator from South Dakota on the Senate floor, and I am sure he will speak more to that when he has the opportunity.

In my concluding remarks, let me say one word about debt and spending. Our policies, the policies of this Congress and this government, are shortchanging our children. The Democrats' runaway spending and debt is a serious crisis ruining the future of our children. That is why we do not want to pass even an unemployment compensation bill that adds to the debt. We want to pass it, but we want to make sure it does not add to the debt.

Why do I say it piles up a debt on our children? In January of 2009—if you divide the national debt across each child under 18, in January of 2009 each child's debt was $85,000. By June of 2010, it was $114,000. By January of 2017, it will be $196,000. Because of budgets—and these are the budgets proposed by a Democratic President—during the next 7 years, each child's share of the national debt will more than double, going from $85,000 to $196,000.

Here is another way to think about it. All the Presidents combined from George Washington to George W. Bush took 232 years to build up a $5.8 trillion debt. President Obama's budgets will double that debt in 5 years and triple it in 10. What that means is all 43 Presidents combined, from George Washington to George Bush, ran up a $5.8 trillion debt in 232 years. In 8 years, President Obama will add twice that much to the national debt, tripling the debt.

We on this side of the aisle and a growing number of Democrats, I am sure, and I know across this country a growing number of Americans are saying this national debt is a serious crisis. So we are grateful to the Senator from South Dakota and to others who recognize the real needs of this country, whether it is unemployment compensation, whether it is flood insurance, or whether it is important for doctors to be properly paid, reimbursed for dealing with Medicare payments. We can afford that in this country, but we need to pay for it. We need to do it without adding to the debt.

So I am deeply disappointed that Democratic Senators have objected tonight to providing flood insurance to Nashvillians and other Tennesseans who need it. The money is here; the authority is not. It could have been given tonight. We could have passed it. Tennesseans aren't looting or complaining; they are helping each other and cleaning up. This is an unfortunate slap in the face to Americans who are helping themselves get out of trouble, and I regret that it happened.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

UNANIMOUS CONSENT REQUEST—H.R. 4853

Mr. THUNE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4853; that all after the enacting clause be stricken and the text of the Thune amendment 4376 be inserted; that the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Reserving the right to object, Mr. President, my colleague's proposal takes money out of job creation to pay for helping people who are out of work. One of the provisions in his proposal would take $37.5 billion away from creating jobs in order to create help for the unemployed and then create more people who are unemployed. So I regret to say I will have to object to this request.

The PRESIDING OFFICER. Objection is heard.

Mr. THUNE. Mr. President, I would like to speak to the amendment I just proffered to the other side which was objected to.

I think there is a consensus in the Senate that we need to fix some of these problems we are facing, one of which is the expiration of unemployment insurance for people who are unemployed. There are a lot of tax provisions that are expiring that need to be extended, things such as the research and development tax credit, which is critical to innovation and competitiveness in this country, and a whole range of other tax credits which affect a broad range of our economy.

Also, I believe it is important that we provide some certainty to people who depend upon Federal policy, and one of those groups would be the physicians in this country who rely upon

Medicare reimbursements for much of their survival because they treat so many Medicare patients. Much of the patient base for many of the physicians in my area of the country, where we have a high elderly population, is Medicare. Obviously, physicians have been facing—up until last week—a 21-percent cut. That was addressed for 6 months, so we have fixed that. We have dealt with it for 6 months. Obviously, that is an issue that will come up again. What my amendment would have done was to solve that issue not just for the next 6 months but to the end of the year 2012. So physicians in this country would have gotten an additional 2 years of relief, so to speak, with regard to their reimbursement.

So I would suggest that inasmuch as these are all things we agree need to be done, the real basic disagreement here revolves around how do we do that.

What the other side has put forward is a series of proposals, starting with the first one, that had $70 billion in tax increases and almost $80 billion added to the Federal debt. The last proposal that was put forward by the Democratic majority had $50 billion in tax increases and $55 billion added to the Federal debt. We hope that this week we are going to see that slim down even further, and I would suggest we are making progress in the right direction. But I think it is still fair to say these things need to be paid for.

As many of my colleagues have pointed out, we have $13 trillion in debt that we owe. That includes debt that is owed between governmental agencies—we call that intergovernmental debt—as well as debt held by the public. If you can find it, the debt held just by the public is about $8.6 trillion. But remember, we are talking about trillions and trillions of dollars.

As my colleague from Tennessee just pointed out, it took 43 Presidents 232 years to get to $5.8 trillion. The amount of debt we compiled and accumulated between 1776 and 2008—232 years of American history—was $5.8 trillion. Now, under this President's budget, we will equal that amount in the next 5 years and double it in 10. In other words, we will double the Federal debt today in 5 years and triple it in 10. That is an astounding number. If you think about all of American history up until the year 2008—232 years and 43 Presidents to get to $5.8 trillion—we are going to double that amount in 5 years and triple it in 10. Staggering.

Under this new administration, we have already racked up enormous amounts of new debt because we added $1 trillion to the debt to pay for a stimulus bill which has not shown any evidence of job creation other than jobs that have been created here in Washington, DC, at the Federal Government level. I think you could argue that Washington's economy has benefited because we have created some government jobs, most of which are temporary census jobs. But if you look at the overall job statistics, we have lost somewhere in the neighborhood of 3 million jobs since the passage of the stimulus bill.

We passed health care expansion, which was sold as health care reform but, frankly, does little to reform health care and certainly doesn't do anything consequential to reduce health care costs. I think most Americans now realize, as insurance premiums continue to go up and as the Actuary and the Congressional Budget Office and the Joint Tax Committee all attest to the fact, we are going to see the cost curve bend up, not down, as a result of the passage of health care reform. This is a $2½ trillion expansion over a 10-year period, when it is fully implemented.

That is a massive new entitlement program on top of the entitlement programs that are already bearing down on us and leading us toward a situation where, in a very few years if we don't take some serious steps, this country is going to be bankrupt. We are going to be belly-up. It is as simple as that. You cannot continue to sustain trillion-dollar deficits year after year after year, which is what we are facing for the foreseeable and long-term future, and expect that we are not going to completely drive this country into the ditch.

So the amendment I offer pays for things. It says: Let's change the way we do things around here. Let's quit handing the bill to our children and grandchildren. Let's quit putting it on the credit card and saying to the next generation: You pay this.

There is certainly nothing wrong with the things the other side is trying to accomplish. As I said, I think there is consensus about addressing these serious needs in our economy right now. But the difference of opinion exists here about, how do you do that? We are simply saying: Let's pay for things. Let's start doing something different here in Washington. Let's do what the American family has to do, what the American small businesses have to do. Let's pay for things, for crying out loud. That is what my amendment would do. It would say: Here are some ways we can shave some savings and we can cut spending here in Washington, DC, and do all these things we think we ought to do without adding to the debt and without raising taxes in the process.

A few months back, here in the Senate, we passed legislation which was labeled as historic and passed to great fanfare. It was called pay-go legislation, and it created pay-go rules that suggested that from now on we are going to start paying for things. What has happened since the passage of pay-go? The Senate has approved, if you count the not-paid-for portions of the bill that is on the floor right now—of course, that hasn't been approved yet, but assuming it were—nearly $200 billion of new debt. From the time we said we are going to start paying for things, which was a few short months ago, we have waived the very rules that were going to put us on a path to fiscal responsibility and fiscal discipline, declared everything an emergency, and added almost $200 billion to the Federal debt.

So here we are today debating yet again another measure that will add more to the Federal debt, that will impose taxes on small businesses in our economy at a time when they are trying to get some momentum to help churn us out of this recession, get us back to where we are creating jobs and to a period of economic growth. All we are doing is piling new taxes on them—taxes on investment, taxes on small businesses, and taxes, of course, with the recent passage of the health care bill, literally on everybody because all those tax increases are going to get passed on to the American consumer.

So where are we? Here is where we are. There are a number of things that can be done that would do what the other side wants to do—to pay for the extension of unemployment benefits. One of those things would be that we could save the necessary amount of money to pay for this now.

The cost of extending unemployment benefits in the Democratic proposal, by the way, is $33 billion. That is a substantial amount of money, but there are many ways in which that could be paid for, all of which were included in my amendment last week, but let me suggest a couple of discrete parts of that amendment that might be stripped out and used to pay just for the unemployment insurance.

We can pay for the extension of the unemployment benefits by returning unspent stimulus funds, which would save $34.5 billion. So the $33 billion in unemployment benefits that need to be extended to people who have lost jobs in the recession could be paid for by returning unspent stimulus funds to the tune of $34.5 billion. So there would be enough to pay for the unemployment benefits and some left over.

It could also be paid for through a 5-percent cut to the 2010 appropriations and an expansion of the affordability exemption to the individual mandate in the health care reform law, which together would save $33.5 billion. So that would give the $33 billion that would be necessary to pay for the extension of unemployment benefits.

Alternatively, it could be paid for with the rescission of other unspent Federal funds, which would pay for it by saving $56 billion. So you could take care of the unemployment benefits, you would have $33 billion that is necessary to pay for that and $23 billion left over, hopefully to be put toward the Federal debt, which would be the best thing we could do for our children and grandchildren.

Finally, it could also be paid for with the inclusion in this bill of medical malpractice reform, which was also included in my amendment last week. That would save about $50 billion. So you would have $50 billion to pay for

the $33 billion in unemployment benefits and have $17 billion left over to put toward the Federal debt, which again would be the best thing we could do for our children and grandchildren.

So all these arguments that are made by my Democratic colleagues that these things are Draconian just aren't true. These are commonsense things that would give us the necessary resources to take care of the problem that is in front of us today but do it in a way that doesn't add billions and billions of dollars to the Federal debt, exacerbating what is already a very serious circumstance facing our children and grandchildren, which the Senator from Tennessee did a very good job of outlining. If you are a child under 18 in America today, the amount of debt you own is about $85,000. By the year 2017, that is going to be $196,000. So if you are a young person in America today who is under the age of 18, your share of the Federal debt is $85,000. Ten years from now, that will be $196,000—in fact, less than 10 years from now; in the year 2017.

I think all that leaves us with a very clear choice when it comes to how we solve problems here in Congress, here in the Senate, and how we deal with the immediate question before us this evening: How do we extend unemployment benefits to those who have lost jobs in the recession?

The other side has come forward with a proposal, again with billions and billions and billions of dollars that are not paid for, and that does go on the debt and that does get passed on to our children and grandchildren.

What we are offering are some commonsense ways, which means the Congress and the Federal Government may have to live on a little bit less. They are things that would require the Federal Government to go on a diet, if you will, in the same way the American people are having to go on a diet. The American people are being asked, because of this tough economy, to make hard choices with regard to their family budgets, with regard to their individual and personal lifestyles, with regard to their businesses. Everybody in this country is having to make decisions about cutting back a little bit. We could address this issue by just asking the Federal Government to take a little bit of a haircut, put the Federal Government on a little bit of a diet. We can achieve the savings necessary to pay for the proposal that is before us.

Again, as I said, $33 billion fixes the unemployment benefit issue, and I have just named four ways that could be paid for, with money left over that could be put toward the Federal debts. That is what this is about. That is what the discussion here is. This is very straightforward.

My colleagues on the other side have come up here this evening and will continue to offer unanimous consent requests to go ahead and do this but not pay for it, and people on our side are getting up and saying: Wait a minute. No, I object, and here is why. And the reason is because we believe in a very straightforward way that we ought to start doing what I think the American people expect of us, and that is for us to live within our means in the same way they do.

Unfortunately, regrettably, today, that is not what is happening here in the Congress. Year over year over year, we continue to spend and spend and spend and borrow and borrow and borrow like there is no tomorrow. Well, the chickens are going to come home to roost. Someday, the bills have to be paid. People where I come from in South Dakota understand that. There is no free lunch. When you borrow money, it has to be paid back. You can't spend money you don't have.

Those are all things that are happening here in Washington, DC today. We are spending money we don't have and we are borrowing money we don't have any idea about how we are going to pay it back. All we are simply doing is giving it to the next generation so they will have a bill facing them and a future that will shackle them with debt that they will be dealing with for their lifetimes and probably the lives of their children and grandchildren as well.

By way of illustration, because I think it is important to put things into perspective—sometimes I think it is very difficult to come to grips with what is $1 billion, what is $1 million, what is $1 trillion. I tried to break that down, to put it in perspective for myself so I can understand a little better what we are talking about. The numbers, the number of zeros on the end of that number, can be almost mind boggling to the average person in this country. Most of us are not used to dealing with numbers that are in that ballpark of $1 trillion.

What a trillion seconds is—if you took a trillion seconds, what would that translate into, by way of illustration and example—a trillion seconds, if you broke that down into years, would be almost 31,000 years; 31,746 years is what a trillion second is. If you take $1 trillion and you make a second a dollar and try to put it into terms I think the average American can understand, a trillion seconds represents 31,746 years.

Since most of us here are probably not going to live much more than 80 years—hopefully if we are lucky, we will live beyond that. Most of us here are going to live under 100 years. When you talk about a trillion seconds, which in the last—we have seen about 15 seconds pass here, and you add that up to a trillion, that is 31,746 years. Think about what $1 trillion represents, how much that is, the scale, the dimension we are talking about and what we are doing to future generations of Americans if we do not start taking the steps that are necessary to pay the bills around here.

This amendment I offered and that was objected to by the other side would have done that. It would have fixed the physician fee issue, not just until November of this year but for another 2 years beyond that, to the end of the year 2012. It would have addressed the issue of the expiring tax provisions which we are all concerned about. It is an important tax policy that needs to be extended that has expired and needs to be addressed. Also, as I said earlier, there is of course the issue before us this evening of unemployment benefits which, at a cost of $33 billion, could easily be offset by any of a number of things I suggested this evening.

I see my colleague from Utah has arrived on the floor. I know he too has an amendment he wishes to offer that I think makes a lot of sense. When it comes to creating jobs, he is someone with a small business background and understands what job creation is about and I understand he will have a request he will make of our colleagues on the other side as well, so at this point I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I thank my colleague from South Dakota for the comments he has made and appreciate the time he put into this effort.

We are talking about jobs. That is the issue. The House bill, H.R. 4853, has to do with taxes that would supposedly increase the number of jobs. In that atmosphere, I wish to revisit the Main Street Revitalization Act of 2010 which I offered some time ago, which has to do with small business and tax activities with respect to small businesses.

Let me remind the Senate that small businesses are the economic engine of our economy. Historically, small businesses have been responsible for all of the net new job creation in the United States. At times when large businesses downsize, small businesses grow. Many times, small businesses are created by people who have lost their jobs with the large business and, in an effort to find someplace to find work, they create businesses of their own. I have had that experience. I have lost my job and said, somewhat facetiously but with more accuracy, I had to start my own business because nobody else would hire me. Many of the businesses I started or was involved with failed, but enough of them succeeded that we were able to create jobs, not only for me but for all of the other people who were involved with me.

When I was the CEO of a business that started out with four—I was the fifth employee hired—we took it ultimately to the New York Stock Exchange and hired 4,000 people. This was a demonstration of what could happen with small businesses. With that business I was able to overcome all of the financial losses that occurred in the businesses I started that didn't work.

As I pointed out before, we did that during what the New York Times has called the decade of greed, because that was the period when Ronald Reagan was President and the top marginal tax

rate was 28 percent. I understand the impact of a tax rate at 28 percent because we financed that business with internally generated funds. Yes, we had a line at the bank but we didn't sell stock—because I am not sure anybody would have bought it. We got to keep 72 cents out of every dollar we earned during the decade of greed. That is what allowed us to go from 4 jobs to 4,000 jobs over about that 10-year period.

Today the top marginal rate, when you add the additions that have been made with respect to the Medicare taxes, is over 40 percent, a very significant increase from the 28 percent we had during the time the New York Times was so scandalized by the fact that small businesses were not taxed enough. I can tell you they are not only taxed enough now, they are taxed too much. This recession has hit small businesses particularly hard.

One of the problems dealing with the challenge of creating a small business as you try to get capital is not just the higher tax rate but a lack of certainty in the capital marketplace. Unfortunately, this lack of certainty has been exacerbated by some of the activities of this administration.

My bill, the Main Street Revitalization Act, tries to address these issues and make a circumstance where a business can have a degree of certainty with respect to their tax position and an opportunity to grow the business in an atmosphere that will move a little closer to that atmosphere with which I was so familiar during the Reagan years. There are three targeted tax breaks in my bill that I wish to talk about in detail.

The first one provides a 10-year net operating loss carryback provision for qualifying businesses whose average gross incomes are $5 million or less. One of the things you learn when you start a small business is that the only thing slightly better, but still bad, for a small business is earning a profit. The worst thing, of course, is a loss. But as soon as you earn a profit the tax man shows up and says ''I want mine.'' I want my 28 percent, if you are in the Reagan years. I want my 42 percent now in the Obama years.

But I haven't got the cash, you say, if you are running a small business. I can't pay the taxes. That money I have shown on a profit and loss statement is tied up in inventory and accounts receivable.

No, says the tax man, I want it now and I want it in cash.

If you have a net operating loss carryback, you can say let me go back and take those years in which we were not earning a profit and apply them, average them in with this time when we have started to earn a profit and thereby avoid paying that tax at this crucial time when I need the cash to grow the business. That is the first thing. We provide a 10-year net operating loss carryback provision for qualifying businesses. It is only, as I say, for businesses with average gross income less than $5 million—genuinely a small business.

No. 2, the bill expands the definition of section 179 expensing to include structural changes to the physical property and it makes the current $250,000 deduction limit permanent. Again, you are starting the business. You have earned some money. You have had to put that money into a physical improvement on your property. But the tax man says I want it in cash. You can't do it, you can't make the business grow without investing it in your property. We expand the definition of this expensing so that you get a tax advantage there.

No. 3, there is, under current law, a startup cost deduction of $5,000. That is fine but it is not enough in today's world to make a difference for a business to survive. My bill would increase the current startup cost deduction from $5,000 to $20,000. This would encourage entrepreneurs to invest now rather than wait for the economy to improve. This says we will exempt this amount up to $20,000. It will produce a significant increase in the number of small businesses.

Nationally there are 5 million to 6 million small businesses that would qualify and benefit from this bill. In Utah we have done the examination. It would be about 70,000 small businesses. If the 70,000 small businesses that would benefit from this would each hire one additional person, that is 70,000 more jobs in the State of Utah. If they were to hire two additional persons, that would be 140,000 new jobs, which is more than the national increase in hiring that occurred last month. It is not a big deal, one employee per business, if we adopt this bill. It would be a very big deal for the impact on the economy as a whole.

Because it is for only businesses with revenues of $5 million or less, we can be sure this is not going to be something that big business is going to take advantage of. We can be sure that all of the concern about bailout of large corporations—it does not apply; my bill would not make any impact at all on that end of the economy.

I have a small business owner in Utah who wrote me a letter with respect to all of his challenges. Let me share with you some of the points he made in his letter that I think apply. He said:

> I own a small business here in Utah . . . that had employed 20 people and now I am down to 4 people, as I cannot get financing.
>
> I have put close to $2 million into technology development and we are ready to launch, but we have run out of funds and can't find investor groups . . . willing to take a risk.
>
> I would hire 25 to 30 new people if I could receive the funding that I need to launch my product. Banks won't lend, people are holding onto cash . . . and I don't want to violate the SEC rules so raising funds is difficult.
>
> I had hoped the government would have made Stimulus funds easier to receive by those businesses that could make a difference in the lives of so many looking for employment.
>
> I have a lot of potential business . . . but may need to shut the business down and layoff the rest of the workers, due to lack of funding.

I believe the tax provisions that are in my bill would make it possible, or easier at least, for this particular small businessman to find the funding he needs and to hire those additional people he talks about. His business plan is sound but his financial circumstance is very difficult.

What this letter tells me, and my own observation elsewhere, is that the stimulus that was supposed to save our economy has not gotten down to small business one bit. This is exactly why I opposed the stimulus bill in the first place. Most of it has been spent in public arenas and has not hit the small business world. The Main Street Revitalization Act will help enable this company to quickly and efficiently access the capital they need to keep the business running, create new jobs, and eventually help them grow and expand.

UNANIMOUS CONSENT REQUEST—H.R. 4853

With that background in mind, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4853, that all after the enacting clause be stricken and the text of S. 3083 be inserted; that the bill as amended be read a third time and passed, the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Mr. President, reserving the right to object, I first commend my friend from Utah for speaking about small business. This is something that we share a very strong passion regarding. In fact, we are operating right now under some small business reforms that have already been passed this year and a 5-year net loss operating carryback—not the 10 years my friend has talked about, but we have begun that with 5 years.

The section 179 expensing was passed in the jobs bill, which is very important. I am hopeful we will be able to join together on a bipartisan basis when our leaders bring to the floor a small business bill that will exempt capital gains for small business, increase the availability of loans, and that we might work together on the other provisions that my friend has suggested from his bill.

At this point, I will object but look forward to working with him on these very important measures.

The PRESIDING OFFICER. Objection is heard.

Mr. BENNETT. Mr. President, I thank the Senator from Michigan for her spirit of cooperation. I am sorry she is required to object. I must confess, I am not particularly surprised. But I appreciate the opportunity to have this discussion and deal with this challenge. If I may close my presentation with, once again, making a comparison between what happened in the 1980s when we created the business that I described and what we are dealing with now.

I remember, in a business prior to the one I just talked about that I was running, during the Carter administration, I went to the bank begging—that is the operative word—begging for a loan, without which we could not meet payroll. I was overjoyed when the banker finally agreed to give us a loan at 21 percent interest.

That was the circumstance through which we were living in those times. We talk about the Great Depression of the 1930s. I remember, very vividly, the great inflation of the 1970s—21 percent interest so that I could meet payroll. That business, to use Abraham Lincoln's words for his store in New Salem, IL, winked out. We did repay the bank loan, but we could not keep the doors open. It was just a few years later that we started the other business during the Reagan administration when the tax circumstances had been changed dramatically.

The Reagan administration inherited the results of the great inflation from the Carter administration, much as the Obama administration has inherited the results of the great housing bubble from the days of the Bush administration. I will not make any attempt to put blame on a partisan basis, but those were the time lines. It was the Carter administration that was there during the time of great inflation; it was the Bush administration that was there when the housing bubble burst. So each President had a dilemma thrust upon it.

Ronald Reagan approached his economic challenge with tax cuts, and it produced the kind of job creation and ultimate economic growth that we are talking about. Reagan was very unpopular in the election that followed his election for President, and his party lost a considerable number of seats in that period. But 2 years later, the economy was roaring forward on such a strong basis, as a result of the Reagan tax cuts, that he was reelected in a landslide.

President Obama chose a different economic theory from that which Ronald Reagan embraced. President Obama followed the advice of the Keynesians and instead of trying to have tax policy that would stimulate the economy, he went to a spending policy to stimulate the economy.

The political pundits are saying President Obama will see losses in November the same way President Reagan did in the off-term election following his Presidential inauguration. My fear is that we will not see the recovery following that because of the Keynesian economics embraced by President Obama. My fear is this recovery will continue to be sluggish, and the unemployment rate will stay very close to double digits.

There are a lot of people who dismissed Ronald Reagan as something of an uneducated, almost simple-minded individual. I would point out Ronald Reagan was the only President we have ever had whose college degree, from his days in Illinois, was in classical economics, pre-Keynesian economics, back in the days when a college degree from any kind of college was something of a rarity. He brought that concept of classical economics into the Presidency and saw a reversal and an end of the great inflation and set off a period of great prosperity for a long time and is considered one of the pivotal Presidents of the last century.

I disagree with the economic policies of this President. I hope I am wrong and that the recession we are now in ends with the same kind of success story that Ronald Reagan had. But I am afraid I am right and we will see this recession drag on for a longer period of time.

With that little bit of nostalgia, I thank the Senators for their indulgence.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

KAGAN NOMINATION

Mr. BARRASSO. Mr. President, I just returned from spending a weekend in Wyoming talking to many people around the Cowboy State who are concerned about our Nation, concerned about the growing debt, concerned about jobs and the economy, and the concern that Washington has taken our eye off the ball.

They also have considerable concerns and questions specifically about the nominee to the Supreme Court, Elena Kagan. I heard this when I was in Thermopolis, WY; when I was in Sheridan; when I was in Casper.

So what I want to do is spend a few minutes discussing and questioning the views on the second amendment of Elena Kagan. The second amendment in Wyoming, as you know, is nothing we take for granted. It is something we hold very dear. We do not take it for granted because our lives depend upon it.

The second amendment allows us to defend ourselves from harm. It also puts food on our tables. These are the values and the virtues that make this issue so important to Wyoming. I understand next week Ms. Kagan's hearings will begin. It is my hope we will have a clear picture of where she stands on the right to keep and to bear arms.

The window into her views is small. I hope the hearing will open that window wider for the American people. Her clerkship to Justice Thurgood Marshall and the documents connected to her time in the Clinton White House only crack that window a little bit. I want to hear from her.

I want to hear why Ms. Kagan recommended to throw out the Sandidge v. the United States case from the Supreme Court. This is a case that involved an individual charged with possession of a handgun and ammunition in the District of Columbia.

In a one-paragraph recommendation to Justice Marshall, Ms. Kagan wrote:

> The petitioner's sole contention is that the District of Columbia's firearms statutes violate his constitutional right to keep and bear arms.

She went on to write:

> I am not sympathetic.

I want to know why she was not sympathetic to Mr. Sandidge. The second amendment explicitly says:

> A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

Well, as we know today, the DC gun ban, the law, was clearly unconstitutional. The individual right to keep and bear arms has been affirmed by the Heller case. Mr. Sandidge's rights were violated. Ms. Kagan had the opportunity to recommend that the Court hear the case, but she did not recommend it.

Was this recommendation a legal opinion or was it a political opinion? The second amendment is pretty clear: The right of the people to keep and bear arms shall not be infringed.

During the Clinton administration, Ms. Kagan served as associate White House counsel. The role of the White House counsel's office is to provide the President with the best legal advice possible. This is not a political office.

According to a 1996 memorandum released by the Clinton Library, Ms. Kagan raised concerns that certain organizations would be exempted from liability under the Volunteer Protection Act. This legislation was aimed at providing protections to volunteers, to nonprofit organizations and governmental entities in lawsuits based on the activities of volunteers.

In a memorandum she wrote, she branded some of these organizations as ''bad guy orgs.'' I assume that is bad guy organizations. The bad guy organizations she was referring to she listed as the Ku Klux Klan and the National Rifle Association. So in her capacity as counsel to the President, I want to know why she was concerned that the NRA, the National Rifle Association, would be covered in the Volunteer Protection Act. I want to know why she grouped a violent racist hate organization with the NRA. The NRA, the national organization and chapters around the country, is very active in Wyoming. It teaches firearm safety. It advocates for second amendment rights. Again, this gets to the question of whether Ms. Kagan is able to separate politics from policy.

We have seen Ms. Kagan's resume. Now we need to hear from her. Next week I look forward to hearing her testimony. I also look forward to meeting with Ms. Kagan to discuss these issues

and the importance of the second amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. How much time remains on this side?

The PRESIDING OFFICER. There is 15 minutes 13 seconds.

Mr. GRASSLEY. I thank the Chair.

BIODIESEL TAX CREDIT

Mr. GRASSLEY. Mr. President, I have a unanimous consent request but I will wait until a Member from the other side is here to make it. As a predicate to that, I will make a statement on my reason for doing so.

As the majority continues to struggle in an attempt to pass another massive deficit spending bill through Congress, biodiesel plants in Iowa and throughout the country continue to lay off workers because the Democratically controlled Congress has not extended the biodiesel tax credit. This is a simple and noncontroversial tax extension that will likely reinstate 20,000 jobs nationwide and about 2,000 jobs in my State of Iowa all by itself. These jobs have fallen victim to a tactic used by the Democratic leadership to hold this popular and noncontroversial tax provision hostage to out-of-control deficit spending in Washington.

This past February, I worked out a bipartisan deal with Chairman BAUCUS to extend the expired tax provision, including the biodiesel tax credit. However, the Senate Democratic leadership decided to put partisanship ahead of job security for thousands of workers in the biodiesel industry. I am here again to try to put thousands of workers back to work, American workers, in the process of producing a clean and renewable fuel. We already stripped out and passed the so-called doctor fix from the larger extenders bill last week. We should do the same with the biodiesel tax credit right now.

Also there is a difference between the biodiesel tax credit and the other tax provisions in the tax extenders bill. The failure to extend the biodiesel tax credit before it expires has ground the industry to a halt, because biodiesel is now more expensive than gasoline and gas stations know they can't sell it. So, of course, naturally, they don't buy it. Therefore, biodiesel producers have stopped producing it because they have nobody to sell it to. While the other tax provisions are important, they are not as time sensitive as biodiesel, because they are not transactional tax incentives like the biodiesel tax credit but instead are based on the taxable year.

I am going to reserve my unanimous consent request until the Senator from Michigan returns. I will go to other remarks I want to make at this point.

I see the Senator has returned so I will make my unanimous consent request at this point.

UNANIMOUS CONSENT REQUEST—H.R. 4853

I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4853, that all after the enacting clause be stricken and the text of S. 3440, to extend the biodiesel fuel tax credit, be inserted; that the bill, as amended, be read a third time and passed and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Mr. President, reserving the right to object, I thank my colleague for his courtesy in allowing me to return to the Chamber and also indicate that this particular provision on biodiesel, which I strongly support, is in the underlying jobs bill. We hope to have this passed in a couple of days. We will have another opportunity to vote on this shortly. As a result of that, I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—H.R. 4853

Mr. GRASSLEY. Mr. President, I have a further unanimous consent request. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4853; that all after the enacting clause be stricken and that an amendment at the desk, which is the text of S. 3421, be agreed to; that the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Reserving the right to object, I again say to my colleague, we will have an opportunity to address this. We had two opportunities last week to address it and did not get the votes. Hopefully, in the next couple days, we will be able to resolve these issues. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRASSLEY. Mr. President, may I ask how much time remains?

The PRESIDING OFFICER. There is 10 minutes.

Mr. GRASSLEY. I thank the Chair.

Mr. President, this morning we saw yet another replay of a dialog between some of my friends on the other side and some on my side of the aisle. It kind of goes like this. Republicans make a proposal to make a pending Democratic leadership proposal such as the extenders bill deficit neutral. The Democratic leadership marshals the votes and defeats the deficit-neutral proposal on a largely party-line basis. After the vote, debate ensues. My friends on the other side define the proposal that they defeat in an incorrect way. They define it as a proposal to carry out the policy of a fiscally responsible manner as opposition to the underlying policy in the proposal. Republicans counter that the Republican deficit-neutral proposal carries most, if not all, of the policy contained in the Democratic leadership's proposal.

When the smoke clears, the true differences between the two sides' approaches become very clear. My friends on the other side want to add to the deficit to carry out the underlying initiative—be it an extension of unemployment benefits or a lot of other things in the bill. On this side, we want deficit neutrality at a minimum by rolling back future bloated spending. The Democratic leadership wants to keep in place the future bloated spending. Tax increases are OK, if they are offset. Bring on hundreds of billions of dollars of tax increase, whether they hit individuals, small businesses, or what have you. As an example, the latest tax is due to hit next week. Next Tuesday, July 1, users of tanning bed services will face a new 10-percent tanning bed excise tax. God help us if someone proposes to make the government even a little bit leaner. That proposal will be met with a brick wall of resistance, even if it is a proposal to roll back future unobligated, unallocated stimulus spending, which stimulus spending has not accomplished what it was intended to accomplish, keeping unemployment under 8 percent.

The upshot is this: For my friends in the Democratic leadership, keeping the spending spigot all the way open trumps deficit reduction. Keep the spending going, in other words. Worry about our deficit sometime down the road. Let our grandchildren worry about it.

On the Republican side, we want to trim the spending and save some taxpayers money by managing priorities. That is a worthwhile debate. It is an intellectually honest debate. It is the kind of debate that can inform fiscal policy judgments. But my friends in the Democratic leadership are not content to have the debate on that basis. Instead, we have seen a pattern where they want to change the subject. Instead of focusing on the present and the future, my friends on the other side want to revisit the past. In veering away from current choices and future fiscal consequences, my friends on the other side take the discussion in a whole different direction. My friends on the other side claim they cannot deal with these problems in a fiscally responsible manner because of Republicans. Republicans only left them with fiscal problems.

People watching C–SPAN witnessed this back and forth last Thursday, and around lunchtime the Senate voted on Senator THUNE's alternative to the Democratic leadership's extender bill. The Thune amendment took the exact opposite approach to the Democratic leadership's substitute. It cut taxes by $26 billion by extending current law. It cut spending by over $100 billion and reduced the deficit by $68 billion. Those are not this Senator's numbers. They come from the nonpartisan Congressional Budget Office and the nonpartisan Joint Committee on Taxation.

According to the Congressional Budget Office, the last version of the Democratic leadership's extender substitute would have increased direct spending by about $105 billion through the year 2020, and raised revenues by about $50

billion over that period, resulting in a net deficit increase of about $55 billion. As an aside, last Friday Chairman BAUCUS and I prevailed on the leadership to clear the deficit-neutral bill that extended the so-called Medicare doctor fix. That action will cut those numbers a little bit.

On the larger bill, however, the contrast could not be clearer. The Republican Conference, along with one member of the Democratic caucus, voted to change the bottom line fiscal effects of the Democratic leadership's extender substitute. If Senator THUNE had prevailed, his amendment would have reduced the deficit by $13 billion more than the amount the Democratic leadership's extender substitute would have added to the deficit. The Thune amendment reached this better fiscal result by simple common sense of restraining Federal spending. All but one Member of the Democratic caucus then in attendance, 57 Senators, voted against the Thune amendment. One of the Senators who voted for the Thune amendment came to the Senate floor to highlight the differences between the Democratic caucus and the Republican Conference in the approach to this extenders bill.

A Member of the Democratic leadership also made some comments on the current fiscal problems. Instead of focusing on the question of whether to offset the policy or not, that Member decided to change the subject. As we saw this morning, that Member of the Democratic leadership wanted to go back several years and talk about fiscal history.

This morning, like last week, there was a lot of revision or perhaps editing of the recent budget history. I expect more of it from some on the other side.

The President signaled as much in an interview with George Stephanopoulos a few months ago. I agree with the President that there is a lot of revisionism in the debate.

The revisionist history basically boils down to two conclusions: One, that all of the ''good'' fiscal history of the 1990s was derived from a partisan tax increase bill of 1993; and, two, that all of the ''bad'' fiscal history of this decade to date is attributable to the bipartisan tax relief plans.

Not surprisingly, nearly all of the revisionists who spoke generally oppose tax relief and—do you know what—support tax increases. The same crew generally supports spending increases and opposes spending cuts.

In the debate so far, many on this side have pointed out some key undeniable facts. The stimulus bill passed by the Senate, with interest included, increases the deficit by over $1 trillion. The stimulus bill was a heavy stew of spending increases and refundable tax credits, seasoned with small pieces of tax relief.

The bill passed by the Senate had new temporary spending that, if made permanent, will burden future budget deficits by over $2.5 trillion. That is not Senate Republicans adding that up. It is the official congressional scorekeeper, the Congressional Budget Office, nonpartisan as they are. In fact, the deficit effects of the stimulus bill passed a year ago March—passed within a short time after the Democrats assumed full control of the Federal Government—roughly exceeded the deficit impact of the 8 years of bipartisan tax relief.

All of this occurred in an environment where the automatic economic stabilizers, thankfully, kicked in to help the most unfortunate in America with unemployment insurance, food stamps, and other benefits.

That antirecessionary spending, together with lower tax receipts, and the TARP activities, has set a fiscal table of a deficit of $1.4 trillion for the fiscal year that ended several months ago. That is the highest deficit, as a percentage of the economy, in post-World War II history.

It is not a pretty fiscal picture, and it is going to get a lot uglier with the budget put forward by the President this year. It is the same result under the budget crafted last year by the Democratic leadership.

So for the folks who see this bill as an opportunity to ''recover'' America with government taking a larger share of the economy over the long term, I say congratulations. America has been recovered with a vast expansion of government and the American People have a lot of red ink to look forward to.

Members who voted for the budget and the fiscal policy envisioned in it put us on the path to a bigger role for the government. But supporters of that fiscal policy need to own up to the fiscal course they are charting.

That is where the revisionist history comes from. From the perspective of those on our side, it seems to be a strategy to divert, through a twisted blame game, from the facts before us. How is the history revised? Let's take each conclusion one by one.

The first conclusion is that all of the ''good'' fiscal history was derived from the 1993 tax increase. To test that assertion, all you have to do is take a look at data from the Clinton administration.

The much-ballyhooed 1993 partisan tax increase accounts for 13 percent of the deficit reduction in the 1990s—13 percent. That 13 percent figure was calculated by the Clinton administration's Office of Management and Budget.

The biggest source of deficit reduction, 35 percent, came from a reduction in defense spending. Of course, that fiscal benefit originated from President Reagan's stare-down of the Communist regime in Russia. The same folks on that side who opposed President Reagan's defense buildup take credit for the fiscal benefit of the ''peace dividend.''

The next biggest source of deficit reduction, 32 percent, came from other revenue.

Basically, this was the fiscal benefit from pro-growth policies, like the bipartisan capital gains tax cut in 1997, and the freetrade agreements President Clinton, with Republican votes, established.

The savings from the policies I have pointed out translated to interest savings. Interest savings account for 15 percent of the deficit reduction.

Now, for all the chest-thumping about the 1990s, the chest-thumpers, who push for big social spending, didn't bring much to the deficit reduction table in the 1990s. Their contribution was 5 percent.

What is more, the fiscal revisionist historians in this body tend to forget who the players were. They are correct that there was a Democratic President in the White House. But they conveniently forget that Republicans controlled the Congress for the period where the deficit came down and turned to surplus.

They tend to forget they fought the principle of a balanced budget that was the centerpiece of Republican fiscal policy.

Remember the government shutdown of late 1995, my friends on the Democratic side? Remember what that was about? It was about a plan to balance the budget. We are constantly reminded of the political price paid by the other side for the record tax increase they put in the law in 1993. Republicans paid a political price for forcing the balanced budget issue in 1996. But, in 1997, President Clinton agreed. Recall as well all through the 1990s what the year-end battles were about.

On one side, congressional Democrats and the Clinton administration pushed for more spending. On the other side, congressional Republicans were pushing for tax relief.

In the end, both sides compromised. That is the real fiscal history of the 1990s.

Let's turn to the other conclusion of the revisionist fiscal historians. That conclusion is that, in this decade, all fiscal problems are attributable to the widespread tax relief enacted in 2001, 2003, 2004, and 2006.

In 2001, President Bush came into office. He inherited an economy that was careening downhill. Investment started to go flat in 2000. The tech-fueled stock market bubble was bursting. After that came the economic shocks of the 9/11 terrorist attacks. Add in the corporate scandals to that economic environment.

And it is true, as fiscal year 2001 came to close, the projected surplus turned to a deficit. But it is wrong to attribute the entire deficit occurring during this period to the bipartisan tax relief. According to CBO, the bipartisan tax relief is responsible for only 25 percent of the deficit change, while 44 percent is attributable to higher spending, and 31 percent is attributable to economic and technical changes.

At just the right time, the 2001 tax relief plan started to kick in. As the

tax relief hit its full force in 2003, the deficits grew smaller. This pattern continued up through 2007.

If my comments were meant to be partisan shots, I could say this favorable fiscal path from 2003 to 2007 was the only period, aside from 6 months in 2001, where Republicans controlled the White House and the Congress. But, unlike the fiscal history revisionists, I am not trying to make any partisan points, I am just trying to get to the fiscal facts.

There is also data that compares the tax receipts for 4 years after the much-ballyhooed 1993 tax increase and the 4-year period after the 2003 tax cuts. I have a chart that tracks those trends.

In 1993, the Clinton tax increase brought in more revenue as compared to the 2003 tax cut. That trend reversed as both policies moved along.

Over the first few years, the extra revenue went up over time relative to the flat line of the 1993 tax increase.

So, let's get the fiscal history right.

The progrowth tax and trade policies of the 1990s, along with the ''peace dividend,'' had a lot more to do with the deficit reduction in the 1990s than the 1993 tax increase. In this decade, deficits went down after the tax relief plans were put in full effect.

No economist I am aware of would link the bursting of the housing bubble with the bipartisan tax relief plans of 2001 and 2003.

Likewise, I know of no economic research that concludes that the bipartisan tax relief of 2001 and 2003 caused the financial meltdown of September and October 2008. I have a chart that shows what the President inherited from a Democratic Congress and a Republican President.

As I said, from the period of 2003 through 2007, after the bipartisan tax relief program was in full effect, the general pattern was this: revenues went up and deficits went down.

That is the past. We need to make sure we understand it. But what is most important is the future. People in our States send us here to deal with future policy. They don't send us here to flog one another, like partisan cartoon cut-out characters, over past policies. They don't send us here to endlessly point fingers of blame.

The substitute before us takes us in the direction of more deficits and debt. The Thune amendment, which was rejected by most of the Democratic Caucus, would have put us on a path in the opposite fiscal direction. My friends on the other side fool no one if they pretend that the fiscal choices made by the Democratic leadership and the President over the last year have nothing to do with this rapidly rising debt.

President Obama rightly focused us on the future with his eloquence during the campaign. I would like to paraphrase a quote from the President's nomination acceptance speech: We need a President who can face the threats of the future, not grasping at the ideas of the past.

President Obama was right.

We need a President, and, I would add, Congressmen and Senators who can face the threats of the future. Grasping at ideas of the past or playing the partisan blame game will not deal with the threats to our fiscal future.

It is not too late to correct the excesses of the stimulus bill or the bloated appropriations bills that will come. The Senate missed an opportunity with a partisan rejection of Senator THUNE's alternative.

We took a small, bipartisan step last Friday. The Senate unanimously approved a paid-for Medicare doc fix bill, led by my friend, Chairman BAUCUS. That was the way we need to go.

There are more bipartisan fiscally responsible efforts underway. Senator MCCASKILL's and Senator SESSIONS' amendment, which calls for a timeout on the exponentially rising levels of appropriations spending, is a good start. The President called on the Democratic leadership to do something similar.

That is what the American people want and need. There is a way to reach a real bipartisan compromise. It is right in front of the Democratic leadership. Efforts to change the subject and blame Republican Congresses of many years ago won't answer the questions about what needs to be done now.

Efforts to blame every fiscal problem on a Republican President who retired a year and a half ago is no answer. It is a strategy that avoids responsibility for the trillions of new spending that the Democratic leadership and this President have muscled through with large majorities. It is time to match the power with responsibility. The American People expect no less.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, it is my understanding that the Republican time has now ended.

The PRESIDING OFFICER. That is correct.

Ms. STABENOW. We have 15 minutes to wrap up. Is that my understanding?

The PRESIDING OFFICER. That is correct.

Ms. STABENOW. First, as a courtesy to my colleagues, I will offer a unanimous consent request at the beginning of our comments, and this relates to the nearly 1 million people who have lost their jobs who have now lost their unemployment benefits because of the inability to move this forward in terms of extending unemployment benefits through the end of November.

UNANIMOUS CONSENT REQUEST—S. 3520

So, Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3520, the Unemployment Extension Act of 2010, that the bill be read a third time and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Senator from Wyoming.

Mr. BARRASSO. Mr. President, reserving the right to object, the Republicans have offered a bill, and it is fully paid for. We have the same concerns. We think, though, we should not be adding to the debt and the deficit. We know the President's budget doubles the national debt in 5 years, triples it in 10. The recommendation here being offered is one that would add to the burden of the debt on our children and grandchildren.

As a result, Mr. President, I do object.

The PRESIDING OFFICER. Objection is heard.

Ms. STABENOW. Mr. President, I would like to now speak both in response to some of what my friends on the other side of the aisle have said and also to talk about why we are here this evening, why we started this whole discussion this evening.

I remember when we, in fact, balanced the budget. We passed a balanced budget under President Clinton. I was against deficits then when I voted, for the first time in 30 years, to balance the budget. I was against deficits when I supported a different way to go with the largest surpluses created by the policies of President Clinton, when I said just focusing on the wealthy in this country and tax benefits for the wealthy not only was not fair, but it was going to balloon the deficit; that not paying for two wars was going to balloon the deficit; that not paying for really any major policy during the 8 years of the Bush administration would balloon the deficit. I was against deficits at that time as well, and I am still against deficits.

When we talk about what happened in the last 8 years, it is not to go back, but it is to learn from what did not work for the American people. One of my friends on the other side of the aisle said they were for private-sector jobs and we were for public-sector jobs. Well, the reality is, during the last 8 years, when deficits did not matter—I will never forget the former Vice President saying deficits did not matter. When they were trying to pass their policies that affected the wealthiest in the country, at the expense of the middle class, deficits did not matter.

But we lost 6 million private-sector jobs during that time—6 million manufacturing jobs—when there was a focus on cheap products instead of American jobs. We lost jobs. Well, deficits mattered to me at that time too, as well as deficits in jobs, which is the main engine of our economy: middle class jobs.

Well, it is true. When we came into the majority and President Obama came into office, after that time of losing 750,000 jobs a month, we took a different tack. We did. We said: Do you

know what. Instead of focusing on big bailouts for Wall Street, and losing 8 million jobs because of that, or people losing their pensions or 401(k)s, we think we ought to have a different set of priorities. We think we ought to focus on the middle class in this country and working people and people who spend all their lives playing by the rules who are saying: What about us?

So we did something different. We put in an investment jobs plan that our colleagues have spent the last year and a half trying to talk down, trying to make sure it did not work. But we put in place a jobs plan to begin to turn things around. And that 750,000 jobs that were lost a month that President Obama inherited went down to zero by the end of the year.

As shown on this chart, this is where we were on jobs in the Bush administration. If their approach had worked, I would say great. If people in my State had not been hit by an economic tsunami during this time, I would say great. I would be out here promoting it. I would be promoting what they are talking about—if it had worked for the majority of Americans. The problem is it did not work.

Now, people listening I know get very confused because there are all kinds of back and forth and different versions of what happened in history. I would ask people just to think about their own lives.

As shown on this chart, it did not work here, starting in 2002, 2003, 2004, 2005. I can tell you, in my State, where we lost a million jobs, these policies did not work. So we tried something else, when we started focusing on people, investing in innovation, partnering with manufacturers—private-sector jobs.

Yesterday, I went to a facility groundbreaking for a battery manufacturing plant. We have 16 different battery manufacturing facilities in Michigan now because of the Recovery Act that are creating private-sector jobs. The manufacturing tax credit we put in for alternative energies is creating private-sector jobs. Now, they are not as fast as we want. They are not as fast as we need. But we are beginning to turn this huge economic ship around. The ship that was going down, down, down—we are beginning to turn it around. We are beginning to turn it around.

My colleagues say we should help people who are out of work by taking money away from this. Let's stop this. Let's take money away from creating jobs to help people out of work.

Well, that does not make any sense. What we have said is we want to continue this. That is why we are saying no to the proposals. That is why I objected to proposals tonight on the floor that sound great on the surface. They sound great. Well, why not just pay for it? Well, you are talking about taking money away from jobs in order to be able to put it into something that is desperately needed as well—both are needed—helping people who are out of work.

We say no. Keep investing. Keep moving it forward, and at the same time—at the same time—let's help people who are out of work in the same way every President—Republican and Democrat—for decades has done; that is, we call it an emergency. It is an emergency in this country when over 15 million people are out of work. And the reality is, from an economic standpoint, we will never get out of a deficit with over 15 million people not working and contributing to the tax base and contributing to the economy, buying things as consumers. We will never get out of debt.

So, yes, we do have a different view. We do. We have a view that worked under President Clinton when 22 million jobs were created. We have that same view now, that same view that says we are going to move ourselves out of this by investing in the middle class of this country, working people. We are going to invest in innovation. We are going to partner with our businesses. They are competing with countries around the world right now to create good private-sector jobs.

And, yes, to support small business, we have done more in tax policies related to small business, and we intend to do even more than I think at any other time I can think of in terms of support for small business. All of that is true.

Mr. President, in order for my colleague from Pennsylvania to speak, will you please tell me when there is 5 minutes left of our time. I do not want to lose the opportunity for the Senator from Pennsylvania to be able to speak.

The PRESIDING OFFICER. The Senator has a minute and a half.

Ms. STABENOW. Before the 5 minutes?

The PRESIDING OFFICER. That is correct.

Ms. STABENOW. Mr. President, I thank you very much.

Let me conclude by saying we are moving in the right direction, but we inherited a huge hole. By the way, the folks who created the hole want us to give them more shovels to go back and create another hole, a deeper hole. We are saying, do you know what. Take away the shovels. Take them away. We need to fill in the hole, not dig a deeper one.

So that is what we have been doing. But here is the reality. It was six people out of work for every one job. Now it is five. OK, it is moving in the right direction. We have a long ways to go. But five people are looking and trying to find every one job. That is what this debate is all about.

Millions of people—most of them worked all their lives, never been out of work in their entire life and are humiliated at the idea they have to ask for help from anybody—find themselves in a position where they are going to lose their house, they are not going to be able to care for their kids, unless we give them the dignity of temporary help. That is all this is, the dignity of temporary help, and the dignity of saying, yes, this is an emergency; yes, we are not changing the rules just for you. We are not going to have a different set of rules for the wealthy in this country and separate rules for somebody who is out of work who is 55 years old who has worked all their life.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. STABENOW. That is what this is about, and it is my great pleasure tonight, as we end, and as we continue to fight for these Americans, to turn our final 5 minutes over to the Senator from Pennsylvania, who has been a real champion standing up for working families in this country.

The PRESIDING OFFICER. Senator, there are now 4½ minutes.

Mr. CASEY. Mr. President, first of all, I commend Senator STABENOW for her words tonight to put in perspective what this debate is all about. It really is a question of jobs—not only creating jobs, as we have been able to do, and still have a long way to go to get out of the ditch, but also preserving jobs. Also, I commend the Senator for her stamina tonight. She has spent a lot of time on the Senate floor.

I want to make two points. One is about unemployment insurance and one is about COBRA premium assistance for health care.

First, with regard to unemployment insurance—the debate we are having on the bill this week and last week, for a number of days now—one of the real points of contention is what we do about those who are out of work through no fault of their own.

I can just tell you what it means for Pennsylvania. Here is the reality in Pennsylvania—and I will ask consent that the following document be made a part of the RECORD: Estimated Exhaustions of All Available Unemployment Compensation Benefits, calendar year 2010. Mr. President, I ask unanimous consent that document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTIMATED EXHAUSTIONS OF ALL AVAILABLE UNEMPLOYMENT COMPENSATION BENEFITS (UP TO A MAXIMUM OF 99 WEEKS) CALENDAR YEAR 2010

[These estimates reflect the total number of individuals in each month projected to exhaust all available state and federal unemployment compensation (UC) benefits under current law—Regular UC, Emergency Unemployment Compensation (EUC), and High Unemployment Period Extended Benefits (HUP EB).]

	YTD Through April	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual Total
EUC/EB phase-out beginning June 2[1]	30,000	5,200	111,000	94,000	65,000	41,000	32,000	25,000	26,000	429,200
EUC/EB phase-out extended to Dec 31[2]	30,000	5,200	4,800	5,600	5,900	6,600	9,100	7,300	64,000	138,500

[1] These projected exhaustions are based on current law, whereby the phase-out of EUC begins on June 2, 2010 (last payable week of EUC is week ending November 6, 2010) and the last payable week of HUP EB is week ending June 5, 2010.

[2] These projections reflect the estimated number of exhaustions that would occur if the phase-out of EUC and EB was extended to December 31, 2010.

Mr. CASEY. What this says is if we don't act to extend unemployment insurance, to give people some help, to get from joblessness to a job, to get across that long bridge, 111,000 Pennsylvanians will be out of unemployment insurance by the end of June. Unfortunately, that number goes up by another 94,000 at the end of July if we do nothing. By the end of this year, 429,200 Pennsylvanians will have no unemployment insurance.

We have to act on that. It makes all the sense in the world when we are recovering—and we are in recovery, thank goodness, but we have a way to go—that we give people the opportunity to at least have the peace of mind to know they have unemployment insurance.

Secondly, with regard to COBRA, if anyone has any doubts as to what this means to real people, I would submit one part of one sentence from a single Pennsylvanian by the name of Lisa. She sent a letter to me talking about chemotherapy treatments she needs and the COBRA premium assistance. She said: ''COBRA benefits have kept me alive.'' That is exactly what we are talking about here—about life and death. Why should a family—as they are trying to get a job, trying to find their way out of joblessness—why should they have to worry and have the additional nightmare of having no health insurance? We can help so many Americans as we did in the Recovery Act. Two million households across the country were helped by the COBRA premium assistance program in 2009. In our State, over 107,000 Pennsylvanians had the benefit of that.

So as we wrap up this debate about preserving jobs and creating jobs—and I think in a sense getting a sense of whose side you are on—are you going to be on the side of slowing things down and playing games or are you going to be on the side of helping the unemployed get a job and help them with their family's health care. As we wrap up this debate, it is about saving jobs and preserving jobs and literally, in some cases, saving lives, not only by way of health care but also by way of the additional debate we are having on Medicaid and what that means to vulnerable people as well as what it means to public safety and other priorities. We can get this right, but we need to have our colleagues on the other side of the aisle recognize that this is a high stakes game they are engaged in and that the loser here in the end is not going to be some political party. Those who will be left out are very vulnerable people who, in addition, are without a job.

With that, I yield the floor to my colleague from Michigan.

Ms. STABENOW. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. There is 20 seconds remaining.

Ms. STABENOW. On that note, I will simply say again that we are here and we will continue to be here fighting on behalf of people who are counting on us to do the right thing. We remember what it is like for too many families right now whose breadwinner cannot bring home any bread because there is no job. We want to remember them and we want to help them and support them as they are looking for work, as all Americans want to be able to have a job and the dignity of work, and that is what we are fighting for.

Thank you, Mr. President. I yield the floor.

TRIBUTE TO FRED ANVIL NEWTON III

Mr. REID. Mr. President, I rise today to recognize the extraordinary work of Fred Anvil Newton III, who is retiring this week. During his 28 years with the Intergovernmental Program Office, his distinguished career elevated him to the highest levels of decisionmaking in one of our government's most sensitive programs. His work greatly enhanced the safety and security of the United States Senate, staff, and visitors.

Mr. Newton dedicated his professional life to mission accomplishment, while always ensuring that the people he led were well-trained and cared for. He managed resources in the most efficient and effective manner possible. Mr. Newton cultivated and maintained partnerships with the U.S. Capitol Police, the offices of the U.S. Senate Sergeant at Arms and the U.S. House of Representatives Sergeant at Arms. Regarded as the dean of the continuity community, he has been at the forefront of strategic continuity planning and his innovative approach to problem solving has set the standard for many of today's continuity programs.

Mr. Newton has many significant accomplishments including the oversight, response, and mitigation of the effects of the public disclosure of a very sensitive national strategic continuity asset. He developed a new strategy for effective use of private sector assets in fulfilling a strategic continuity mission; the result being minimal cost to government and maximum flexibility for planners.

Mr. Newton provided advice and counsel to national level emergency managers attempting to mitigate and recover from the effects of a biological warfare attack on the United States Senate. Additionally, Mr. Newton held a great ability to identify subject matter experts, which significantly reduced recovery time and expense.

During his tenure, Mr. Newton oversaw the acquisition, staffing, and operation of multiple relocation assets in support of the strategic continuity mission. He also advocated and oversaw the development of a purpose-built tactical waterborne evacuation asset whose capabilities significantly enhance the efficient and timely movement of essential government personnel from threat zones.

He also oversaw a major chemical, biological, radiological and explosives defense effort protecting a highly symbolic national asset. This effort uniquely combines surveillance/identification technologies, defensive measures, and incident management and mitigation capabilities to form a standard by which other large-scale protective efforts are now measured.

I, along with my colleagues in the Senate, congratulate Fred on his well-deserved retirement. We wish Mr. Newton all the best in his future endeavors.

TRIBUTE TO ANDREA ROGERS

Mr. LEAHY. Mr. President, today I honor Andrea Rogers, the CEO and founding executive director of the Flynn Center for the Performing Arts. I have had the privilege to congratulate Andrea over the years on her many accomplishments within the arts community, including her most recent award from the Vermont Arts Council, the Walter Cerf Lifetime Achievement in the Arts award. Today, I once again recognize her decades of invaluable service to Vermonters and I wish her future success as she retires from her executive director position at the Flynn Center for the Performing Arts after 30 years of dedicated service.

In 1980, Andrea led a campaign to purchase an old movie house in downtown Burlington, with the hope of turning it into a home for performing arts groups. She was successful, and the old building became an independent theatre. Andrea organized many fundraising efforts to restore the antiquated space, and within the next 5 years, the Flynn succeeded in hosting over 350 performances presented by 50 different organizations. Today, 30 years

later, the Flynn Theatre is known as the Flynn Center for the Performing Arts and is firmly embedded into Chittenden County and Vermont's cultural landscape.

Since its founding, the Flynn has expanded and renovated its space, hosted thousands of diverse performances, opened an art gallery and created many educational programs. Because of Andrea's leadership, the Flynn has received several awards across the state, the country, and even the world. It was the only organization honored by both the Ford Foundation and the Doris Duke Charitable Foundation in 2000. The Flynn's educational program has also been recognized by the Dana Foundation as one of eight outstanding arts programs in the country, and has recently received the Outstanding Historic American Theatre Award at a national conference put on by the League of Historic American Theatres.

I am proud to say that all of these accomplishments happened under Andrea's tenure. She is widely recognized for her passion for performing arts and community development, and her dedication has had an extraordinary impact on the arts in Vermont. Marcelle and I have spent some of our most memorable evenings at the Flynn, and Andrea's enthusiasm for her work and for her colleagues will be dearly missed. I ask unanimous consent to have printed in the RECORD the following article to permanently recognize Andrea's contribution to the State of Vermont.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press]

FLYNN CENTER DIRECTOR EXITS, STAGE RIGHT

(By Sally Pollak)

A monoprint of a jazz trombone quartet hangs above Andrea Rogers' desk in her office at the Flynn Center for the Performing Arts. The piece is alive with color—golds and purple—and appears at first to be an abstract work. But a second look reveals players, instruments, music stands: art and music in vibrant harmony. ''I love the alive feeling of it,'' Rogers said. ''I have all this artwork, and no place at home to put it.''

Rogers has until the end of the month to find wall space in her Burlington house. The last day of June will be the final day of Rogers' tenure as executive director of the Flynn. She will be succeeded by John Killacky, who has been manager of the arts and culture program for the San Francisco Foundation. Rogers, who will turn 70 on July 14, has guided the Flynn since before its creation—when she and other community members recognized potential in a dilapidated Main Street theater being used as a cinema. ''The Flynn was of interest to me—the potential of the theater to serve as a performing-arts center,'' Rogers said. She was intrigued by the idea of preserving a historic building, one whose existence was threatened, and adapting it to community use.

''It's something that I saw that needed to be done. I never dreamed I'd be the director. . . . ''Burlington was my home, and I could see there was a need. If people want something, and there's a reasonable chance that they can come together to make it happen, it can happen. There were many times when I cried, and wondered if we could pull it off. But I went to the public: Every step forward we made, it was because the community was behind us. It was very organic.'' Thirty years after accepting the job she never dreamed of, Rogers is stepping down as the only executive director the Flynn has had.

She has both envisioned the nonprofit performing-arts center, and guided its growth: The Flynn has a $6 million endowment, an education department that presents student matinees, offers classes and develops and implements arts curriculums in local schools.

The theater presents its own season of shows, commissions work and plays host to artists' residencies. The Flynn's own programming has grown from about three shows a year to 50 to 60 annual performances, Rogers said. It serves as a performance space for other organizations, such as the Vermont Symphony Orchestra and Lyric Theatre. The smaller FlynnSpace is a venue for more experimental pieces, where about 40 percent of the shows are Flynn presentations.

''I love the Flynn,'' said Jaime Laredo of Guilford, VSO music director and a violinist and conductor who performs around the world. ''It's one of the most vibrant arts centers anywhere, not just in the state of Vermont. ''It's so amazing what goes on there, the range of things—from symphonies to country music to Broadway shows to recitals to jazz. I don't know many places like that. I think it's fantastic. And I think what Andrea has done is miraculous.''

Bob Dylan and Phish played at the Flynn in the 1990s; Mikhail Baryshnikov has performed on its main stage three times; the World Saxophone Quartet blew free jazz on a winter's night in the late '80s. The contemporary dancer/choreographer Bill T. Jones presented his first full version of ''Last Supper at Uncle Tom's Cabin/The Promised Land,'' outside of New York City, at the Flynn. The major work, co-commissioned by the Flynn and addressing hot-button issues, included workshops with Jones and dozens of community members naked on stage as part of the performance.

ART AND COMMUNITY

The Jones piece could serve as Exhibit A in what people say is Rogers' most important contribution to Burlington: bringing together art and community, with each step of the building of the Flynn a commitment to that ideal.

''Andrea has allowed her life to be defined by the mission of what the Flynn Center is all about,'' guitarist Paul Asbell said. ''You do it out of love and a sense of mission. It is her vision that has been implemented.'' Asbell knows the Flynn as a performer and an audience member, and he knows Burlington before the Flynn existed.

''The contribution to Burlington is too deep to even count it all,'' Asbell said. ''It's been remarked thousands of times that for the size of the city, it's incredible the type of cultural events and musical events and artistic awareness in Burlington. It's unbelievable what we've grown accustomed to.''

Along the way, the Flynn has earned a national reputation among arts organizations and arts funders for its programming, its audience-building and its community engagement.

''To this day, the Flynn stands as model of how to do it right, how to have a strong artistic program and at the same time be a central node for community,'' said Philip Bither, senior curator of performing arts at the Walker Art Center in Minneapolis. He is the former Flynn director of programming/artistic director of the Burlington Discover Jazz Festival.

''We talk about attempting to create cultural commons, places that a diverse range of audiences can gather and celebrate live performing arts,'' Bither said. ''The Flynn is that. It's really a remarkable success story. Andrea has been there from Day 1, and has really had the vision to see how to get to that place.''

The audience ranges from wealthy patrons who attend frequent performances to children in Burlington's Old North End. Kids not only attend shows, but also participate in mini-artist workshops: Third-graders at the Integrated Arts Academy recently had a song swap with singers in the African Children's Choir—trading and singing songs together.

''For many children, the only time they walk down Church Street is when they go with their class to the Flynn,'' said Joyce Irvine, principal of IAA.

ACTIVE TILL HER EXIT

With retirement three weeks away, Rogers has little time to think about her exit. In fact, pending retirement never looked so active. She tracks jazz festival ticket sales every day, comparing numbers with last year and the year before—an activity that shows Rogers takes nothing for granted, including next season's existence.

''It takes a lot to keep this going,'' Rogers said. ''It's not a shoo-in. We start from scratch every year, raising an operating budget.'' Rogers is immersed in putting together next season's sponsorship, and then comes the budget for fiscal 2011. ''The biggest part of what I do is supporting everybody else,'' Rogers said. She has evening jazz festival events and shows to attend. ''That part never felt like work,'' Rogers said. She notes a particular change that will come with retirement: ''I have to pay now. I'm going to be a good patron.''

A COMMUNITY ORGANIZER

Rogers came to her work at the Flynn through community organizing. She grew up in New Britain, Conn., and attended college at the University of Michigan, where she studied history, history of art and French. After college, Rogers moved to New York City, where she lived for almost 10 years. She worked for the American Field Service, doing community-service work with teenagers.

She moved here in 1970, interested in living in a small city and drawn to Burlington by a beloved great aunt and uncle who lived here, and by her love for skiing and sailing. Soon after arriving, Rogers started working in community-based drug-prevention efforts. The job combined her interests in community organization and working with young people. She liked the community involvement, setting up and organizing systems—but the core issue was not where her true interests lay, Rogers said.

After four years working in drug-abuse prevention, Rogers became founding director of the Church Street Center for Community Education, a university-affiliated center that preceded the Firehouse Center for Visual Arts. Her involvement with a community effort, spearheaded by Lyric Theatre, to purchase and renovate the Flynn led to her hiring as its first director. She was writing grants for the project and doing other organizational work when Rogers was asked if she'd open an office, she recalled.

''Well,'' she replied, ''you have to pay me.'' It was only a ''pittance,'' she said, but it was enough to persuade her to devote herself to the Flynn effort. Syndi Zook, executive director of Lyric Theatre, was a Lyric performer when the company endeavored to return the theater—then owned by Merrill Jarvis—to a live performance space. ''We wanted to put on plays,'' Zook said. ''We didn't want to be engaged in the multimillion-dollar campaign that it would take to bring that

beautiful building back to its historic stature.'' That was left to the newly created Flynn board, and to Rogers.

''What we were trying to do was save it from the wrecking ball,'' Zook said. ''What Andrea has done is save this beautiful historic landmark that is just a jewel in the center of the city.''

During her years at the Flynn, Rogers said her artistic sensibility grew to include an appreciation for contemporary dance. She had always enjoyed music—listening, singing and playing piano—and contemporary art. ''I found the merging of music and movement and abstract ideas to be really eye-opening and exciting,'' Rogers said. ''I came to really appreciate it, and not to feel the need to totally understand it.''

COURAGE AND AMBITION

Ambiguity and complex, challenging works would become part of the Flynn's programming. Although Rogers said she had the authority to manage programming, she chose not to exercise it. This is the purview of artistic director Arnie Malina and Bither, his predecessor.

Bither came to the Flynn in 1988 from the Brooklyn Academy of Music, where he curated experimental music and avantegarde jazz. Conversations with Rogers before he was hired indicated the direction she wanted to take the theater. It was not necessarily what one might have predicted, given the Flynn's previous programming, Bither said.

''She said she wanted the kind of new thinking, and sometimes provocative programming,'' Bither said. ''She wanted the freshest, most interesting artists that are happening, not just in New York City but around the world.''

The notion that this kind of programming would work in a city the size of Burlington was ''a leap of faith, to say the least,'' Bither said. In those days, management would pin up fliers for Flynn shows on trips to the supermarket, part of the effort to fill the house, Bither recalled.

A fund to honor Rogers, Andrea's Legacy Fund, was created by the Flynn board to raise money for programming and education, initiatives the board identified as key to Rogers' tenure. Board chairman Fred ''Chico'' Lager said the goal of raising $1.5 million in cash is nearly met. With deferred donations, Andrea's Legacy Fund totals almost $2 million, he said.

''Andrea is fiercely committed that we not retreat in any way, as is the board,'' Lager said. ''She's leaving us in great shape. The legacy fund will ensure that we will be able to sustain everything that we are doing, and actually continue to grow.''

Rogers has her own ideas about her legacy, which she believes is centered on connecting themes: artistic excellence and community involvement. ''You never had one without the other,'' she said. And though events are planned around her retirement, including a free evening of entertainment June 26 at the Flynn, called ''Exit Laughing,'' Rogers has her own ideas about how she'd like to leave: ''Personally,'' she said, ''I would've put a barrel on my head and snuck out the door.''

ADDITIONAL STATEMENTS

REMEMBERING CHIEF JUSTICE WILLIAM S. RICHARDSON

● Mr. AKAKA. Mr. President, in Hawaii all beaches are public. It is one of the things that makes our State a special place, and it is due to a landmark 1968 ruling by the Hawaii Supreme Court authored by Chief Justice William S. Richardson. As a military veteran, attorney, political party leader, elected official, State supreme court justice and trustee of Hawaii's largest private landowner, Chief Justice Richardson's many contributions helped shape our Nation's youngest State. This great man, a dear brother and friend, died yesterday at the age of 90.

As Chief Justice of the Hawaii Supreme Court from 1966 to 1982, C.J., as many of us affectionately knew him, did so much to preserve Hawaii's rich culture and heritage. As he explained it:

Hawaii has a unique legal system, a system of laws that was originally built on an ancient and traditional culture. While that ancient culture had largely been displaced, nevertheless many of the underlying guiding principles remained. During the years after the illegal overthrow of the Hawaiian Kingdom in 1893 and through Hawaii's territorial period, the decisions of our highest court reflected a primarily Western orientation and sensibility that wasn't a comfortable fit with Hawaii's indigenous people and the immigrant population. Thus, we made a conscious effort to look to Hawaiian custom and tradition in deciding our cases—and consistent with Hawaiian practice.

A self-described ''local boy from Hawaii,'' C.J. graduated from Roosevelt High School and the University of Hawaii at Manoa, and received his law degree from the University of Cincinnati. In World War II, he joined the U.S. Army and served as a platoon leader with the 1st Filipino Infantry Regiment. He was later inducted into the Infantry Officer Candidate School Hall of Fame. C.J. served as the chairman of the Hawaii Democratic Party and as the State's first Lieutenant Governor of Hawaiian ancestry. Upon retirement from the Hawaii Supreme Court, Chief Justice Richardson served as a trustee of the Kamehameha Schools.

C.J.'s modest beginnings influenced his future dedication to the underrepresented, minority, and indigenous communities of Hawaii. His mixed heritage of native Hawaiian, Chinese, and Caucasian ancestry reflected the diverse culture and history of the people. He understood the issues most important to the people and fought hard to ensure that the legal system provided remedies for the most vulnerable populations. He will also be remembered for his work to establish the State's only law school—The William S. Richardson School of Law. Chief Justice Richardson fought vigorously for its creation because he believed Hawaii students who could not travel to or afford mainland law schools should have an opportunity to study law nevertheless.

Chief Justice Richardson was a true son of Hawaii. He lived his life in service to others and did so with a warm and kind disposition. We celebrate his life, achievements, and contributions to the State of Hawaii.●

EMERADO, NORTH DAKOTA

● Mr. CONRAD. Mr. President, today, I am pleased to recognize a community in North Dakota that is celebrating its 125th anniversary. On July 10, the residents of Emerado, ND, will gather to celebrate their community's founding.

When the railroad came to Emerado in 1882, a town began to take shape on the Hancock homestead. The town site was platted in September 1885 by Henry Hancock, originally of Ontario, Canada, and by Lewis Emery, Jr., from Bradford, PA. The village was named for Emery, owner of one of the first bonanza farms in North Dakota, consisting of 4,480 acres of land.

Among the early businesses were Fred Ludwick and Henry Raymond, blacksmith; Plup and Morgans Grocery Store; Emery Hotel, built about 1882; the Virginia Hotel, built around 1915 by A.A. Hood; Dakota St. Anthony Elevator; Farmers Elevator; and Bill Hancock Hardware. The first post office was established on November 25, 1885, with Edmund Gale, Jr., serving as the postmaster.

The mill was built in the late 1890s by J.R. Cooper. Over time, other businesses were developed. Among these were the Gritzmacher General Store; Seebart Brothers painters and decorators; S.S. Hood General Merchandise; William L. Sibell, barber; Charles Emery Ford Car and International dealer; George Dean Grocery; Fosnes Hardware and Machinery; Ralph Bosard, blacksmith; S.S. Grantham Coop Store; Mary Kelly Cafe; and the ''Blind Pig'' pool hall and barber shop operated by Nick Hickson.

Emerado was a thriving small town until the disastrous events of May 9, 1928. Ashes cleaned out of a nearby locomotive ignited, leading to a fire that razed 24 structures, including the town's church, town hall, elevator, several businesses, homes, and barns. The church, elevator, town hall, and one home were soon rebuilt.

Emerado is very proud of the Emerado Elementary School, home of the Bulldogs. Students from kindergarten through eighth grade are privileged to be taught by caring professionals who share the belief that ''each student is the most important person in school.''

In honor of the city's 125th anniversary, community leaders have organized a parade, carnival games, an all-school reunion, and many other fun and exciting events.

I ask that my colleagues in the U.S. Senate join me in congratulating Emerado, ND, and its residents on their first 125 years and in wishing them well in the future. By honoring Emerado and all other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Emerado that have helped shape this country into what it is today, which is why this fine community is deserving of our recognition.

Emerado has a proud past and a bright future.●

TRIBUTE TO HARRIET O'NEILL

● Mr. CORNYN. Mr. President, on June 20, Texas Supreme Court Justice Harriet O'Neill retired after a judicial career of more than 17 years. On behalf of the people of Texas, I would like to take this time to recognize her many accomplishments.

After graduating with honors from the University of South Carolina School of Law and practicing for a decade in the field of complex business litigation, Justice O'Neill was elected to Texas' 152 District Court in 1992. On that court, her ability to conduct fair and impartial hearings was widely-recognized and won her the praise of lawyers on both sides of the civil bar.

Less than 3 years later, Justice O'Neill's superior record in the district court earned her an appointment and subsequent election to Texas' 14 Court of Appeals. As an appeals court judge, she once again stood out from the crowd. In the words of her colleague, Judge David West, ''Harriet was considered one of the most reliable judges we had. . . She was absolutely flawless.''

After earning a 91 percent approval rating from the Houston Bar Association, the highest on her nine-member court, the people of Texas elected Justice O'Neill to the Texas Supreme Court in 1998, where she served with honor ever since. In 2002, and again in 2006, the Texas Association of Civil Trial and Appellate Specialists named her the Appellate Justice of the Year. Even more profoundly, in the case of TGS–NOPEC v. Combs, Justice O'Neill broke down a long-term barrier when she became the first woman ever elected to the Texas Supreme Court to preside as Chief Justice.

As a Judge in the Texas Court System, Justice O'Neill has been a model for judicial restraint and faithfully interpreting the law, as written. Her opinions have consistently explained the law and the judicial role in a manner accessible to the general public. Clearly, she has provided an example for all judges to follow.

Justice O'Neill's service to the State of Texas, however, has extended far beyond the courtroom doors. Most admirably, she has been an unwavering champion for the legal rights of our society's most vulnerable citizens.

Since its inception in 2001, Justice O'Neill has been an active member of the Texas Access to Justice Commission. Through her work with this organization, she has helped to develop and implement initiatives designed to ensure that the court system is available to meet the basic legal needs of low-income Texans. In particular, she was heavily involved in creating and distributing a self-help Protective Order Kit that enables victims of domestic violence to file their own applications for court-ordered protection for themselves and their children. Because so many of our most important rights depend upon judicial enforcement, her efforts have ensured that countless Texans will be able to enjoy the equal justice under the law so central to the American dream.

Justice O'Neill has also worked to protect Texas' most innocent and disadvantaged citizens through serving as the chairwoman of the Permanent Judicial Commission for Children, Youth and Families. After spearheading the creation of this commission in 2007, she has worked tirelessly to strengthen court practices in the Texas child-protection system. Thanks to her efforts, Texas' 30,000 abused and neglected foster children can rest assured that they will be able to look forward to a better tomorrow.

Justice O'Neill's dedication to protecting the vulnerable has also been recognized at the national level. In 2006, she was appointed by Attorney General Alberto Gonzales to serve on the Department of Justice's National Advisory Committee on Violence Against Women. In this capacity, she assisted with the implementation of the Violence Against Women Act and supplied policy advice on programs addressing domestic violence, sexual assault and stalking. Because these crimes are so heinous and their victims are so defenseless, Justice O'Neill's work in this area is particularly important and praiseworthy.

Although her professional accolades are impressive in their own right, Justice O'Neill's personal accomplishments are equally so. While devoting countless hours to serving the people of Texas, she has simultaneously managed to serve as a loving wife to her husband Kerry and a dedicated mother to her three children. Despite 17 years of full caseloads, she has found the time to stay actively involved with her family, including a tenure coaching her daughters' youth basketball teams. In this busy day and age, Justice O'Neill has provided all of us with an example of what it truly means to fulfill our duty.

While June 20 marked the end of her service on the Texas Supreme Court, I have no doubt that Justice O'Neill will remain active in the causes that she cares so deeply about. On behalf of the people of Texas, I thank her for her many contributions. We can only hope that her next 17 years will be as remarkable.●

TRIBUTE TO LINDA TYLER

● Mrs. LINCOLN. Mr. President, today I congratulate State Representative Linda Tyler of Conway, who was recently elected by her peers as the majority leader for the Arkansas State House of Representatives. She is the first female elected to the position, and I commend her for this significant achievement.

Along with my staff, I have worked with Representative Tyler on behalf of our constituents, and she has always done an excellent job representing the needs of those in her district. As a small business owner, she knows the economic challenges that face so many Arkansas families, and she works tirelessly to help them access the resources and help they need.

Along with all Arkansans, I thank Linda and the entire Arkansas Legislature for their leadership and their dedication to keeping our State strong. I also recognize the other representatives who were recently elected to leadership positions:

David ''Bubba'' Powers, D–District 3, Majority Whip; Charolette Wagner, D–District 17, Secretary; Barbara Nix, D–District 28, Treasurer; Butch Wilkins, D–District 74, 1st District Whip; Fred Allen, D–District 33, 2nd District Whip; Greg Leding, D–District 92, 3rd District Whip; and Johnnie Roebuck, D–District 20, 4th District Whip.●

TRIBUTE TO MICHAEL K. NEAL

● Mrs. LINCOLN. Mr. President, today I recognize Arkansas wildlife officer Michael K. Neal, who put himself in harm's way earlier this year to save the lives of his fellow law enforcement officers.

Officer Neal is credited by the West Memphis police for stopping a shootout with suspects in the deaths of two of their fellow officers. On May 20, Officer Neal rammed his truck into a van occupied by a father and son suspected of gunning down West Memphis officers Brandon Paudert and Bill Evans during a traffic stop on Interstate 40, before exchanging gunfire with law officers who cornered them in a parking lot.

Officer Neal was one of 13 officers from multiple agencies involved in the shootout, and I commend the bravery and heroism of every law enforcement officer involved in this tragic event. I also send my heartfelt condolences to the families and loved ones of those who lost their lives.

Mr. President, I am also proud that Officer Neal's bravery and heroism were recently honored during a ceremony at the Arkansas Game and Fish Commission, where he was presented with the Medal of Valor by Governor Mike Beebe. Officer Neal has received recognition from West Memphis-area legislators, the city of West Memphis and its police department, and by the Crittenden County Quorum Court and sheriff's office.

Officer Neal represents the best of Arkansas, and he is more than deserving of these honors. I commend him for his valor, bravery, and selflessness.●

30TH ANNIVERSARY OF BRICKFEST

● Mrs. LINCOLN. Mr. President, today I congratulate the residents of Malvern in my home State of Arkansas as they celebrate the 30th anniversary of Brickfest, a time-honored tradition that commemorates the importance of brick production to the history of the city of Malvern and Hot Spring County. Abundant clay in the area makes it a prime location for brick production, and since 1887, the industry has played a leading role in the area's economic development.

Nicknamed ''The Brick Capital of the World,'' Malvern celebrates Brickfest each year on the last weekend of June. I am looking forward to attending this year's event, which will take place June 24–26 at Malvern City Park, complete with live entertainment, a 5K race, a car and tractor show, motorcycle show, and awards for best dressed brick, brick toss, brick car derby, and much more.

Acme, now the only brick company operating in the Malvern area, provides a display of its product, and every year it manufactures dated mini-bricks that are distributed as souvenirs.

I salute the entire community of Malvern and Hot Spring County as they celebrate this historic milestone. I commend them for keeping the history and heritage of their community alive.●

ARKANSAS' NATIONAL HISTORY DAY WINNERS

● Mrs. LINCOLN. Mr. President, today I congratulate the Arkansas elementary and secondary school students who recently joined students from across the Nation to participate in the annual Kenneth E. Behring National History Day Contest in Washington, DC. This contest in our Nation's Capitol is the final stage of a series of National History Day contests throughout the school year at the State and local level.

Each year, more than half a million students, encouraged by thousands of teachers nationwide, participate in National History Day. Students choose historical topics related to a theme and conduct research through libraries, archives, museums, oral history interviews and historic sites. The students then present their work in original papers, Web sites, exhibits, performances, and documentaries, which are evaluated by professional historians and educators.

I commend the commitment to learning so clearly on display from the young Arkansans who took part in this event. Their hard work and dedication represents the best of our State, and I am proud of their achievements. By participating in events like National History Day, our young citizens can develop critical thinking and problem-solving skills, along with confidence and self-esteem. These skills will prepare them for the future and help keep our State and Nation strong.

Arkansas students recognized in the annual Kenneth E. Behring National History Day Contest are:

SPECIAL AWARD: HISTORY IN THE FEDERAL GOVERNMENT

Conway High School East
Conway
Senior Group Exhibit: The Road to Innovation: The Federal-Aid Highway Act of 1956
Teachers: William Richardson & Charles Williams
Students: Lauren Hart, Anna Jordan, Annie Patton

OUTSTANDING ENTRIES FOR ARKANSAS

Lisa Academy-North
Sherwood, AR
Best Junior Division Project: Sputnik: The Sky is Never the Limit
Teacher: Dustin Seaton
Students: Morgan Depriest, Alena Higgins, Yulia Batalina

Alma High School
Alma
Best Senior Division Project: Disney Animations: A Lifetime of Innovation
Teachers: Toney McMurray, Erin Mills, Manesseh Moore
Students: Courtney Craft, Breanna Witherspoon

JUNIOR GROUP DOCUMENTARY

Lisa Academy-North
Sherwood
Project: Sputnik: The Sky is Never the Limit
Teacher: Dustin Seaton
Students: Morgan Depriest, Alena Higgins, Yulia Batalina

Northridge Middle School
Van Buren
Project: Weather Satellites: The Difference Between Survival and Death
Teacher: Jeanie Perkins
Students: Braydon Montgomery, Peyton Bettencourt

JUNIOR INDIVIDUAL EXHIBIT

Carl Stuart Middle School
Conway
Project: Crossett Experiment of 1916: An Innovation That Changed Malaria Eradication
Teachers: Sherry Holder, Kaye McMillian
Student: Rebecca Philpott

JUNIOR PAPER

Russellville Jr. High School
Russellville
Project: The Innovation of the Flushing Toilet: The Beginning of Human Civilization
Teacher: Aimee Mimms
Student: Emily Austin

SENIOR GROUP EXHIBIT

Conway High School East
Conway
Project: The Road to Innovation: The Federal-Aid Highway Act of 1956
Teacher: William Richardson, Charles Williams
Students: Lauren Hart, Anna Jordan, Annie Patton

SENIOR INDIVIDUAL DOCUMENTARY

Conway High School East
Conway
Project: A Picture is Worth A Thousand Words: The Innovation of Photojournalism
Teachers: William Richardson, Charles Williams
Student: Elisa Detogni

SENIOR GROUP PERFORMANCE

Conway High School East
Conway
Project: One Giant Leap for Mankind: Apollo 11 and The Innovative Idea To Put A Man On The Moon
Teachers: William Richardson, Charles Williams
Students: Jeannie Corbitt, Rachel Ford

SENIOR WEB SITE

Pulaski Academy
Little Rock
Project: Deng Xiaoping: China's Economic Revolution
Teacher: Jody Musgrove
Student: Tc Zhang●

ARKANSAS' ''40 UNDER 40''

● Mrs. LINCOLN. Mr. President, today I honor and congratulate 40 of Arkansas's brightest young professionals who were recently named to Arkansas Business' ''40 Under 40'' list for 2010.

These young adults represent the best of our State, and I am proud to see them earn this recognition. I am particularly proud to see one of my own staffers on this list, Little Rock native Tamika Edwards. I have seen Tamika's hard work and dedication firsthand, and I know that her work ethic is shared by all of the recipients of this prestigious honor.

These honorees now join an elite group of business and community leaders, and I look forward to working with them as they continue to grow in their careers.

I also commend the editors and readers of Arkansas Business for choosing to highlight these young individuals and their efforts for our State.

Members of the 2010 ''40 Under 40'' group, as named by Arkansas Business, are:

Alexandru Biris, 36—UALR Nanotechnology Center
Chris Bates, 38—The Computer Hut
Allison Cox, 35—Windstream Corp.
John E. Heard, 38—McGehee-Desha County Hospital
Josh Jenkins, 36—Parker Cadillac
Mandy Kelley, 38—Greater Hot Springs Chamber of Commerce
Deanna Newberry, 38—Honeywell International Inc.
Brian Vandiver, 35—Mitchell Williams Selig Gates & Woodyard PLLC
Michele Simmons Allgood, 39—Williams & Anderson PLC
Kristine G. Baker, 39—Quattlebaum Grooms Tull & Burrow PLC
Elizabeth Bintliff, 33—Heifer International
Shannon E. Butler, 32—City Year Little Rock/North Little Rock
Craig Shelly, 34—USA Truck Inc.
Jim Chidester, 39—Chidester Engineering PLLC
Courtney Henry, 37—Arkansas Court of Appeals and Arkansas Supreme Court
Audrey House, 32—Chateau Aux Arc Vineyards & Winery
Sam O'Bryant III, 30—Pulaski County Government
Dan Young, 37—Rose Law Firm
Tom Leonard Jr., 35—PricewaterhouseCoopers LLP
Robert Coon, 30—Impact Management Group
John Bacon, 39—eStem Public Charter Schools
Chad Evans, 39—Arvest Bank
Kyle Allmendinger, 33—Datek Inc.
Tim Hicks, 38—Bank of the Ozarks
Cristian Murdock, 39—Arkansas State University
Jason Taylor, 35—First Community Bank
Justin Acri, 36—KABZ–FM, 103.7
Jean C. Block, 36—Office of the Arkansas Attorney General, Health Care Bureau
Chris Cranford, 37—Jones Film Video
Tamika Edwards, 31—Office of Senator Blanche Lincoln
Tara Smith, 31—Arkansas Department of Higher Education
Brooke Vines, 37—Vines Media
Shayla Copas, 36—Shayla Copas Interiors
Russell Harris, 39—Entergy Arkansas Inc.
Roberts Lee, 39—Meadors Adams & Lee
Gwendolyn Bryant-Smith, 35—Central Arkansas Veterans Healthcare System
Melissa Hendricks, 37—Pulaski Technical College
Scott Shirey, 34—KIPP Delta Public School

Kevin Keech, 39—Keech Law Firm
Melissa Snell, 33—Snell Prosthetic & Orthotic Laboratory●

TRIBUTE TO COLONEL ED JACKSON

● Mr. PRYOR. Mr. President, today I wish to recognize the service of COL Donald E. ''Ed'' Jackson, Jr., as the Commander of the Little Rock District, U.S. Army Corps of Engineers, from June 28, 2007, to June 15, 2010. Colonel Jackson has been assigned to serve as chief of staff of the 8th U.S. Army in Korea where I have no doubt he will go on to serve our country in a proud and loyal fashion. He has been a pleasure to work with and I wish him well on his next mission.

While Commander of the Little Rock District, Colonel Jackson displayed excellent leadership for one of the most diverse Army Corps of Engineer districts in the United States while managing roughly 730 employees, 13 locks and dams, 12 multipurpose lakes and 7 powerplants. Colonel Jackson showed exemplary skill in working with stakeholders, building relationships, and providing necessary leadership to execute the district's programs.

Under his command, the district initiated many major projects including construction on Ozark Hydro-electric powerplant rehabilitation and the landmark White River Minimum Flow Project along the Upper-White River Basin. These were not easy assignments, but under his leadership, Arkansas made significant headway. I also commend him for the critical leadership he provided for his neighboring districts to improve quality of service at Corps of Engineers operated campgrounds. And, he did an excellent job of implementing the American Recovery and Reinvestment Act funding for the Little Rock District, which provided much needed investments in aging infrastructure. He did this while also overseeing the operation and maintenance of the McClellan-Kerr Navigation Channel, which is one of our nation's best navigation systems serving as a critical component of our economy.

To go along with his service on energy and water infrastructure projects, he played a critical role in overseeing and executing a $750 million program of military construction for the Little Rock Air Force Base and Pine Bluff Arsenal to improve the quality of life and work for our soldiers. Colonel Jackson also developed strong relationships with the Regional Veteran's Administration by assisting with $175 million in projects critical to the healthcare system, and he assumed a new mission by managing the world-wide Air Force Medical Command O&M program with a $180 million budget.

In addition to his skills in managing scheduled operations, Colonel Jackson exhibited adaptability and care for the people during local and regional emergencies in different major events. During record Arkansas flooding in the spring of 2008, Colonel Jackson successfully directed the district's management and control of water in the Upper-White River Basin to minimize flood related losses. He also deployed to the State of Texas to assist in the recovery from Hurricane Ike in Galveston, TX.

Colonel Jackson is a proven leader of people and organizations. His passion, leadership, and influence have greatly increased the readiness and effectiveness of the Little Rock District. I fully believe that he helped shape the district to meet the future needs of the people of Arkansas. I appreciate his service to the people of Arkansas, and I wish him well in his continued service to our country.●

REMEMBERING CLARENCE WOLF GUTS

● Mr. THUNE. Mr. President, today I pay tribute to Clarence Wolf Guts, of Wanblee, SD. Clarence passed away on June 16, 2010, at the age of 86.

The last surviving Oglala Lakota code talker, Clarence Wolf Guts was an American hero. Serving in World War II as a Native American code talker, Clarence helped win the war by transmitting critical military messages in his native language, which the Japanese and German militaries could not translate.

Clarence enlisted in the U.S. Army on June 17, 1942, at age 18. One of 11 South Dakotan Lakota, Nakota, and Dakota Native American code talkers, Clarence was recruited to help develop a phonetic alphabet based on the Lakota language. This alphabet was eventually used to develop the Lakota code.

Serving as a code talker, Clarence's primary job was transmitting coded messages from a general to his chief of staff in the field. Courageous and self-sacrificing, the efforts of Clarence and other code talkers were essential for the Allied victory.

Honorably discharged on January 13, 1946, Pfc. Wolf Guts was a man willing and able to serve his country. I have a great deal of respect for Clarence and for the extraordinary contributions Mr. Wolf Guts made to our country. The efforts of the Lakota Code Talkers saved the lives of many soldiers, and Clarence Wolf Guts was a true American hero.

Today I wish to celebrate the life of an extraordinary man. As we mourn the loss of this great South Dakotan, I extend my thoughts, prayers and best wishes to Clarence's family, friends, and loved ones.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6301. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2010 Atlantic Bluefish Specifications'' (RIN0648–XQ49) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6302. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 31; Correction'' (RIN0648–AX67) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6303. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Red Snapper Closure'' (RIN0648–AX75) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6304. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Amendment 3'' (RIN0648–AW65) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6305. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Restrictions and Observer Requirements in Purse Seine Fisheries for 2009–2011'' (RIN0648–XW12) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6306. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer'' (RIN0648–XW47) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6307. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Feet (18.3 m) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XW55) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6308. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Encryption Export Controls: Revision of License Exception ENC and Mass Market Eligibility, Submission Procedures, Reporting Requirements, License Application Requirements, and Addition of Note 4 to Category 5,

Part 2'' (RIN0694–AE89) received in the Office of the President of the Senate on June 18, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6309. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Grapes Grown in a Designated Area of Southeastern California and Imported Table Grapes; Relaxation of Handling Requirements'' (Docket Nos. AMS–FV–09–0085; FV10–925–1 FIR) received in the Office of the President of the Senate on June 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6310. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Changes to Reporting and Assessment Due Dates'' (Docket Nos. AMS–FV–10–0020; FV10–956–1 FR) received in the Office of the President of the Senate on June 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6311. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Order Amending Marketing Order No. 930'' (Docket Nos. AO–370–A8; AMS–FV–06–0213; FV07–930–2) received in the Office of the President of the Senate on June 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6312. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2010–2011 Marketing Year'' (Docket Nos. AMS–FV–09–0082; FV10–985–1 FR) received in the Office of the President of the Senate on June 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6313. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 2009–2010 Crop Year'' (Docket Nos. AMS–FV–09–0069; FV09–930–2 FR) received in the Office of the President of the Senate on June 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6314. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Sweet Cherries Grown in Designated Counties in Washington; Change in the Handling Regulation'' (Docket Nos. AMS–FV–09–0033; FV09–923–1 FR) received in the Office of the President of the Senate on June 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6315. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Nectarines and Peaches Grown in California; Increased Assessment Rates'' (Docket Nos. AMS–FV–09–0091; FV10–916–917–2 FR) received in the Office of the President of the Senate on June 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6316. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Blueberry Promotion, Research, and Information Order; Increase Membership'' (Docket Nos. AMS–FV–09–0022; FV–09–705) received in the Office of the President of the Senate on June 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6317. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''User Fees for 2010 Crop Cotton Classification Services to Growers'' (Docket Nos. AMS–CN–09–0011; CN–10–001) received in the Office of the President of the Senate on June 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 3104. A bill to permanently authorize Radio Free Asia, and for other purposes (Rept. No. 111–214).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. AKAKA:

S. 3517. A bill to amend title 38, United States Code, to improve the processing of claims for disability compensation filed with the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LEAHY (for himself, Mr. SESSIONS, Mr. SPECTER, Mr. SCHUMER, and Mr. LIEBERMAN):

S. 3518. A bill to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments in United States Courts where those judgments undermine the first amendment to the Constitution of the United States, and to provide a cause of action for declaratory judgment relief against a party who has brought a successful foreign defamation action whose judgment undermines the first amendment; to the Committee on the Judiciary.

By Ms. SNOWE (for herself, Mr. KOHL, and Mr. LIEBERMAN):

S. 3519. A bill to stabilize the matching requirement for participants in the Hollings Manufacturing Partnership Program; to the Committee on Commerce, Science, and Transportation.

By Ms. STABENOW (for herself, Mr. MERKLEY, Mr. FRANKEN, Mr. BROWN of Ohio, and Mr. WHITEHOUSE):

S. 3520. A bill to provide for an extension of unemployment insurance; to the Committee on Finance.

By Ms. MURKOWSKI:

S. 3521. A bill to provide for the reestablishment of a domestic rare earths materials production and supply industry in the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FRANKEN (for himself, Mr. KOHL, Mr. MENENDEZ, Ms. KLOBUCHAR, Mr. FEINGOLD, Mr. DURBIN, and Mrs. FEINSTEIN):

S. 3522. A bill to protect children affected by immigration enforcement actions, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 311

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 311, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 334

At the request of Mr. LUGAR, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 334, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Moldova.

S. 457

At the request of Mr. THUNE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 457, a bill to establish pilot projects under the Medicare program to provide incentives for home health agencies to utilize home monitoring and communications technologies.

S. 478

At the request of Mr. DEMINT, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 478, a bill to amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

S. 565

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 565, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 714

At the request of Mr. WEBB, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 714, a bill to establish the National Criminal Justice Commission.

S. 1055

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1237

At the request of Mrs. MURRAY, the name of the Senator from Maryland

(Mr. CARDIN) was added as a cosponsor of S. 1237, a bill to amend title 38, United States Code, to expand the grant program for homeless veterans with special needs to include male homeless veterans with minor dependents and to establish a grant program for reintegration of homeless women veterans and homeless veterans with children, and for other purposes.

S. 1360

At the request of Mr. BINGAMAN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1360, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 1445

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1445, a bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth.

S. 1545

At the request of Mrs. GILLIBRAND, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1545, a bill to expand the research and awareness activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases and the Centers for Disease Control and Prevention with respect to scleroderma, and for other purposes.

S. 1598

At the request of Mr. SCHUMER, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 1598, a bill to amend the National Child Protection Act of 1993 to establish a permanent background check system.

S. 2750

At the request of Mr. SCHUMER, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2750, a bill to amend the Public Health Service Act to authorize the Secretary of Health and Human Services to make grants to eligible States for the purpose of reducing the student-to-school nurse ratio in public secondary schools, elementary schools, and kindergarten.

S. 2801

At the request of Mr. FRANKEN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2801, a bill to provide children in foster care with school stability and equal access to educational opportunities.

S. 2882

At the request of Mr. KERRY, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2882, a bill to amend the Internal Revenue Code of 1986 to modify the rules relating to the treatment of individuals as independent contractors or employees, and for other purposes.

S. 2903

At the request of Mr. BURR, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2903, a bill to amend the Child Care and Development Block Grant Act of 1990 to require criminal background checks for child care providers.

S. 3058

At the request of Mr. DORGAN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3108

At the request of Mr. MENENDEZ, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 3108, a bill to amend title 31 of the United States Code to require that Federal children's programs be separately displayed and analyzed in the President's budget.

S. 3234

At the request of Mrs. MURRAY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 3234, a bill to improve employment, training, and placement services furnished to veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 3320

At the request of Mr. WHITEHOUSE, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 3320, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 3339

At the request of Mr. KERRY, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 3339, a bill to amend the Internal Revenue Code of 1986 to provide a reduced rate of excise tax on beer produced domestically by certain small producers.

S. 3345

At the request of Mr. WHITEHOUSE, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 3345, a bill to amend title 46, United States Code, to remove the cap on punitive damages established by the Supreme Court in Exxon Shipping Company v. Baker.

S. 3347

At the request of Mr. VITTER, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Georgia (Mr. ISAKSON) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 3347, a bill to extend the National Flood Insurance Program through December 31, 2010.

S. 3364

At the request of Mr. UDALL of Colorado, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 3364, a bill to amend the Energy Policy and Conservation Act to establish the Office of Energy and Renewable Energy as the lead Federal agency for coordinating Federal, State, and local assistance provided to promote the energy retrofitting of schools.

S. 3479

At the request of Mrs. HAGAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3479, a bill to authorize the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, to establish and implement a birth defects prevention, risk reduction, and public awareness program.

S. 3481

At the request of Mr. CARDIN, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 3481, a bill to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

S. 3512

At the request of Mrs. HUTCHISON, the names of the Senator from Arizona (Mr. MCCAIN) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 3512, a bill to provide a statutory waiver of compliance with the Jones Act to foreign flagged vessels assisting in responding to the Deepwater Horizon oil spill.

S. 3513

At the request of Mr. BAUCUS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 3513, a bill to amend the Internal Revenue Code of 1986 to extend for one year the special depreciation allowances for certain property.

S. RES. 411

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 411, a resolution recognizing the importance and sustainability of the United States hardwoods industry and urging that United States hardwoods and the products derived from United States hardwoods be given full consideration in any program to promote construction of environmentally preferable commercial, public, or private buildings.

S. RES. 541

At the request of Mr. CONRAD, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. Res. 541, a resolution designating June 27, 2010, as ''National Post-Traumatic Stress Disorder Awareness Day''.

S. RES. 546

At the request of Mr. SPECTER, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Florida (Mr. LEMIEUX) were added as cosponsors of S. Res. 546, a resolution recognizing the National Museum of American Jewish History, an affiliate of the

Smithsonian Institution, as the only museum in the United States dedicated exclusively to exploring and preserving the American Jewish experience.

S. RES. 552

At the request of Mr. BENNET, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. Res. 552, a resolution designating June 23, 2010, as ''Olympic Day''.

AMENDMENT NO. 4342

At the request of Ms. SNOWE, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 4342 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 3517. A bill to amend title 38, United States Code, to improve the processing of claims for disability compensation filed with the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, as Chairman of the Senate Committee on Veterans' Affairs, I introduce the proposed Claims Processing Improvement Act of 2010, to focus on enhancements that can be made to adjudicate veterans' disability compensation claims in a more timely and accurate manner.

VA has seen a dramatic rise in the number of claims, driven by a number of factors, including the aging of the general veteran population and our prolonged involvement in two overseas conflicts. Further complicating matters, many claims are increasing in complexity, as veterans seek service-connection for multiple disabilities and for disabilities that are difficult to diagnose, such as traumatic brain injury and post traumatic stress disorder.

Claims adjudication is an intricate process that has seen many piecemeal changes in recent years. Unfortunately, these changes have yet to produce the results that veterans deserve. My goal, a goal that I am sure is widely shared, is to ensure that veterans are provided accurate and timely resolution to their claims.

This legislation I am introducing today would make several improvements in the claims adjudication process. Provisions in title I of the bill would establish a pilot program that would utilize ICD codes to identify disabilities of the musculoskeletal system. Over fifty percent of Operations Iraqi and Enduring Freedom veterans that the Department of Veterans Affairs has had some health care contact with have a possible musculoskeletal diagnosis. ICD codes are standard medical condition identification codes used in electronic records that have been adapted by the Secretary of Health and Human Services for electronic transmission of medical data.

This proposed pilot program would take place in six to ten regional offices and require VA to develop a new method of rating claims, which would consider the frequency, severity, and duration of symptoms of the disability in rating the claim, rather than the current rating schedule published in the Code of Federal Regulations. The current rating schedule adds to the complexity of claims adjudication, because many disabilities claimed are not exactly as described in the regulation and several rating codes may need to be considered. The new rating schedule would focus on the impact of the disability, for example, an inability to walk normally, rather than a particular VA rating code classification. All limitations resulting from all disabilities of the musculoskeletal system would be combined to provide one rating, rather than separate ratings for each individual disability. This information would be placed into an organized and searchable electronic record. A veteran could elect to not participate in the pilot program. I believe that such an approach will result in fairer, comprehensive ratings for the entire musculoskeletal system.

Title II of the bill includes a number of provisions that are intended to yield some near-term changes to the claims processing system and should help reduce the overall time a claim is under consideration by VA. During the last several years, the Committee has held oversight hearings on the claims processing system. Many of the provisions in this legislation were first suggested by veterans service organizations and other interested parties in connection with those hearings. Others have been recommended by the administration. The legislation I am introducing today serves as a starting point to move forward in our effort to improve VA's claims adjudication process.

Provisions in title II would allow for VA to issue partial ratings of claims that include multiple issues for those issues that can adjudicated expeditiously; give equal deference to private medical opinions during the rating process; and clarify that the Secretary is required to provide notice to claimants of additional information and evidence required only when additional evidence is actually required. It would also modify filing periods for notices of disagreement from one year to 180 days and require a claimant to file a substantive appeal within 60 days of the Department issuing a post-Notice of Disagreement decision both of these modifications would contain good cause exceptions to the filing deadlines.

Other provisions in title II would automatically waive the review of new evidence by the agency of original jurisdiction, usually a Regional Office, so that any evidence submitted after the initial decision would be subject to initial review at the Board of Veterans' Appeals unless the claimant or the claimant's representative requests in writing that the agency of original jurisdiction initially review such evidence. This legislation would also replace the Secretary's obligation to provide a Statement of the Case with an obligation to provide a post-Notice of Disagreement decision. The post-Notice of Disagreement decision would be in plain language and contain a description of the specific facts in the case that support the decision including, if applicable, an assessment as to the credibility of any lay evidence pertinent to the issue or issues with which disagreement has been expressed; a citation to pertinent laws and regulations that support the decision; the decision on each issue and a summary of the reasons why the evidence relied upon supports such decision under the specific laws and regulations applied; and the date by which a substantive appeal must be filed in order to obtain further review of the decision. The Secretary would also be required to send, with a rating decision, a form that if completed and returned, would suffice as a notice of disagreement.

This is not a comprehensive recitation of all of the provisions within this important veterans' legislation but does, I hope, provide an overview of the changes encompassed in this bill.

Everyone involved realizes that there is no quick fix to solving the myriad issues associated with disability claims processing, but the Committee intends to do everything within its power to improve this situation. To bring optimal change to a system this complicated and critical, we must be deliberative, focused, and open to input from all who are involved in this process.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Claims Processing Improvement Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—RATING OF SERVICE-CONNECTED DISABILITIES MATTERS

SEC. 101. PILOT PROGRAM ON EVALUATION AND RATING OF SERVICE-CONNECTED DISABILITIES OF THE MUSCULOSKELETAL SYSTEM.

(a) PILOT PROGRAM REQUIRED.—The Secretary of Veterans Affairs shall carry out a pilot program to assess the feasibility and advisability of applying an alternative schedule for rating service-connected disabilities of the musculoskeletal system.

(b) SCHEDULE FOR RATING SERVICE-CONNECTED DISABILITIES.—

(1) IN GENERAL.—Not later than 240 days after the date of the enactment of this Act, the Secretary shall establish an alternative schedule for rating service-connected disabilities of the musculoskeletal system.

(2) PUBLICATION IN FEDERAL REGISTER.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall publish the alternative schedule established under paragraph (1) in the Federal Register.

(3) COLLABORATION.—The Secretary shall establish the alternative schedule required by paragraph (1) collaboratively through the Under Secretary for Benefits, the Under Secretary for Health, and the General Counsel.

(4) ELEMENTS.—The alternative schedule for rating disabilities under paragraph (1) shall include the following:

(A) The use of the International Classification of Diseases, as adopted by the Secretary of Health and Human Services under section 1173(c) of the Social Security Act (42 U.S.C. 1320d–2(c)) and any successor revisions to such classification so adopted, for purposes of identifying disabilities of the musculoskeletal system.

(B) A residual functional capacity assessment instrument to describe the functional musculoskeletal loss resulting from any disability of the musculoskeletal system.

(C) Mechanisms for the assignment of one residual functional capacity rating for all musculoskeletal disabilities determined to be service-connected, which mechanisms shall take into account the following:

(i) Frequency of symptoms affecting residual functional capacity of the musculoskeletal system, set forth as a range of—

(I) infrequent (once a year or less);

(II) several (two to six) times a year;

(III) occasional (seven to twelve times a year);

(IV) weekly; and

(V) daily or continuous.

(ii) Severity of symptoms affecting residual functional capacity of the musculoskeletal system resulting in loss of functional capacity of the musculoskeletal system, set forth as a range of—

(I) minimal (symptoms present but requiring no treatment);

(II) slight (such as requiring minor alteration of activity or treatment with over-the-counter medication);

(III) mild (such as requiring rest of relevant body part and use of over-the-counter medication, prescription medication, or therapy, such as ice or heat to an affected part);

(IV) moderate (such as requiring medical evaluation and treatment or prescription medication for pain or symptom control with side effects which can be expected to interfere with full performance of work-related activities); and

(V) moderately severe to severe (such as requiring the need to use assistive devices for ambulation, use of opioid or similar prescription medication to control pain which precludes driving or being around machinery, in-patient hospitalization or rehabilitation or frequent out-patient treatment physical therapy, or loss or loss of use of functional capacity in both arms or feet, or one arm and one foot, or requiring a wheelchair for mobility).

(iii) Duration of symptoms affecting residual functional capacity of the musculoskeletal system resulting in reduced functional capacity of the musculoskeletal system, set forth as a range of—

(I) one day or less to one week;

(II) more than one week but less than four weeks;

(III) four weeks or more but less than six months;

(IV) six months or more but less than one year; and

(V) one year or more.

(D) Mechanisms for the assignment of ratings of disability in certain cases as follows:

(i) If the veteran has an active musculoskeletal cancer or other active musculoskeletal disability likely to result in death, a rating of 100 percent.

(ii) If the veteran would qualify for a temporary disability rating under section 1156 of title 38, United States Code, the rating provided under that section.

(iii) If the veteran would qualify for a temporary disability rating under any regulations prescribed by the Secretary not provided for under this section, the rating assigned under such regulations.

(E) Such other mechanisms as the Secretary considers appropriate for the pilot program.

(5) FORMS FOR RECORDING RESIDUAL FUNCTIONAL CAPACITY ASSESSMENTS.—

(A) IN GENERAL.—The Secretary shall establish one or more functional capacity assessment forms to be used in performing assessments with the instrument required by paragraph (4)(B).

(B) AVAILABILITY.—The Secretary shall make the forms established under subparagraph (A) available to the public in an electronic format for use by any physician or other medical provider in assessing the residual functional capacity related to disabilities of the musculoskeletal system.

(6) EXEMPTION FROM APA.—The establishment of the alternative schedule required by paragraph (1) shall not be subject to the requirements of subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act'').

(c) APPLICATION OF ALTERNATIVE SCHEDULE.—

(1) IN GENERAL.—In carrying out the pilot program, the Secretary shall apply the alternative schedule for rating disabilities established under subsection (b) to veterans described in paragraph (3) who have a condition of the musculoskeletal system that has been determined to be a disability incurred or aggravated during military service to determine the rating to be assigned for such disability.

(2) APPLICATION THROUGH REGIONAL OFFICES.—

(A) IN GENERAL.—The Secretary shall apply the alternative schedule for rating service-connected disabilities under this subsection through not fewer than six and not more than ten regional offices of the Department of Veterans Affairs selected by the Secretary for purposes of the pilot program.

(B) DIVERSITY OF SELECTION.—In selecting regional offices under subparagraph (A), the Secretary shall select—

(i) at least one regional office considered by the Secretary to be a small office;

(ii) at least one regional office considered by the Secretary to be a large office; and

(iii) regional offices representing a variety of geographic settings.

(3) COVERED VETERANS.—Veterans described in this paragraph are veterans who—

(A) submit to the Secretary more than one year after their date of discharge or release from the active military, naval, or air service an original claim for benefits under the laws administered by the Secretary;

(B) allege in the claim described in subparagraph (A) the existence of a condition of the musculoskeletal system that was incurred or aggravated in such military, naval, or air service;

(C) file such claim with a regional office of the Department with original jurisdiction of the claim that is participating in the pilot program; and

(D) have not expressly declined participation in the pilot program.

(4) RELATION TO COMBINED RATINGS TABLE.—A rating assigned for a musculoskeletal service-connected disability under the pilot program shall be determined without regard to the Combined Ratings Table in title 38, Code of Federal Regulations, except that in determining the final rating of all service-connected disabilities, the rating for musculoskeletal disabilities as determined under the pilot program shall be combined with any other disabilities using such table.

(5) TREATMENT OF DISABILITY RATINGS FOR LOSS OF BODILY INTEGRITY.—Compensation under laws administered by the Secretary for a disability receiving a disability rating under the schedule established under subsection (b)(1) shall be, as applicable, in addition to or consistent with any compensation otherwise provided under subsections (k) through (s) of section 1114 of title 38, United States Code.

(d) LIMITATIONS ON DENIAL OF SERVICE CONNECTION.—During the pilot program, the Secretary may not determine a musculoskeletal

condition of a veteran to be not service-connected for purposes of the veteran's participation in the pilot program unless the Secretary—

(1) obtains, or receives a report of, a medical examination of the veteran which—

(A) includes a brief history of the veteran's military service relevant to the condition;

(B) identifies the diagnosed musculoskeletal disabilities in accordance with the classification required by subsection (b)(4)(A); and

(C) describes the functional limitations of such conditions, and if applicable, any secondary conditions related to such alleged conditions or any non-service connected disability aggravated by the alleged conditions; and

(2) obtains or receives a medical opinion on—

(A) the nexus between any diagnosed musculoskeletal condition alleged to be service-connected and the active military, naval, or air service of the veteran; and

(B) if applicable, the relationship between any service-connected disabilities of the veteran and any secondary disabilities related to such disabilities or any non-service connected disability aggravated by the alleged conditions.

(e) RECORDS.—

(1) IN GENERAL.—The Secretary shall maintain for purposes of the pilot program a separate searchable electronic file on each veteran covered by the pilot program.

(2) ELEMENTS.—The electronic file maintained with respect to a veteran under paragraph (1) shall include for the following:

(A) An index of the documents contained in the electronic file.

(B) The claim of the veteran for benefits under the laws administered by the Secretary, including any reapplication with respect to such claim.

(C) The service treatment records of the veteran from medical care received while serving in the active military, naval, or air service and any other medical treatment records of the veteran from service during periods of active or inactive duty for training.

(D) The personnel records of service of the veteran—

(i) in the active military, naval, or air service; and

(ii) in the reserve components of the Armed Forces.

(E) Such other private or public medical records of the veteran as the Secretary considers appropriate.

(F) Records of any medical examinations and medical opinions on the residual functional capacity of the musculoskeletal system of the veteran, including any examinations and opinions obtained under subsection (d).

(G) Records of any medical examinations and medical opinions concerning any non-musculoskeletal disabilities claimed by the veteran as service-connected.

(H) Any non-medical evidence applicable to the claim.

(I) Current information and evidence on any dependents of the veteran for purposes of the laws administered by the Secretary.

(J) Ratings and decisions of the Secretary with respect to the claims of the veteran.

(K) Information concerning the amount of compensation paid to the veteran under laws administered by the Secretary.

(L) Any notices or correspondence sent by the Secretary to the veteran or any correspondence submitted by the veteran to the Secretary in connection with the claim that does not contain evidence or information applicable to the claims of the veteran.

(3) ORGANIZATION.—Each file required by paragraph (1) shall be stored or displayed with separate sections for each element required under paragraph (2).

(f) TERMINATION OF APPLICATION.—The Secretary shall cease the application to veterans under subsection (c) of the alternative schedule for rating service-connected disabilities under subsection (b) for purposes of the pilot program on the date that is 4 years after the date of the enactment of this Act.

(g) PRESERVATION OF RATINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a disability rating assigned under the alternative schedule established under subsection (b) shall not be reduced during or after termination of the pilot program absent evidence of clear and unmistakable error in the original assignment of the rating or evidence of an improvement in the musculoskeletal disability manifested by less frequent, less severe, or shorter duration of symptoms measured over a period of at least six months in the year prior to any re-evaluation.

(2) EXCEPTION.—Paragraph (1) shall not apply to ratings assigned for temporary periods as provided in subsection (b)(4)(D).

(h) RELATIONSHIP TO OTHER PROVISIONS OF LAW ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.—Except as otherwise specifically provided in this section, all applicable provisions of law administered by the Secretary shall apply to decisions of the Secretary made under the pilot program.

(i) INTERIM REPORT.—

(1) IN GENERAL.—Not later than 300 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives an interim report on the pilot program.

(2) ELEMENTS.—The interim report required by paragraph (1) shall include the following:

(A) A description of the alternative schedule for rating service-connected disabilities established under subsection (b).

(B) The rationale for the alternative schedule as described under subparagraph (A).

(C) A description of the policies and procedures established under the pilot program.

(j) REPORT.—

(1) IN GENERAL.—Not later than 3 years and 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the pilot program.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A copy of the alternative schedule for rating service-connected disabilities established under subsection (b) and any changes made to such schedule during the pilot program.

(B) A description and assessment of the application of the alternative schedule for rating service-connected disabilities of veterans, including—

(i) the total number of veterans to which the alternative schedule was applied;

(ii) the total number of veterans determined to have a service-connected disability consisting of a condition of the musculoskeletal system; and

(iii) the ratings of disability assigned to veterans described in clause (ii), set forth by percentage of disability assigned.

(C) An assessment of the feasibility and advisability of applying the alternative schedule for rating service-connected disabilities to additional claimants.

(D) A comparison of a representative sample of decisions rendered by different regional offices for similar disabilities participating in the pilot program.

(E) The number of appeals filed for claims adjudicated under the pilot program.

(F) An assessment of the effectiveness of the electronic file maintained under subsection (e) in—

(i) the adjudication of claims under the pilot program; and

(ii) improving the efficiency of decision making by the Department.

(G) Such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot program.

(k) DEFINITIONS.—In this section:

(1) The term ''active military, naval, or air service'' has the meaning given that term in section 101(24) of title 38, United States Code.

(2) The term ''non-service-connected'', with respect to a disability, has the meaning given that term in section 101(17) of title 38, United States Code.

(3) The term ''service-connected'', with respect to a disability, has the meaning given that term in section 101(16) of title 38, United States Code.

TITLE II—ADJUDICATION AND APPEAL MATTERS

SEC. 201. PARTIAL ADJUDICATION OF CLAIMS FOR DISABILITY COMPENSATION CONSISTING OF MULTIPLE ISSUES ONE OR MORE OF WHICH CAN BE QUICKLY ADJUDICATED.

(a) IN GENERAL.—Section 1157 of title 38, United States Code, is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(a) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following new subsection:

''(b) ASSIGNMENT OF PARTIAL RATINGS.—(1) In the case of a veteran who submits to the Secretary a claim for compensation under this chapter for more than one condition and the Secretary determines that a disability rating can be assigned without further development for one or more conditions but not all conditions in the claim, the Secretary shall—

''(A) expeditiously assign a disability rating for the condition or conditions that the Secretary determined could be assigned without further development; and

''(B) continue development of the remaining conditions.

''(2) If the Secretary is able to assign a disability rating for a condition described in paragraph (1)(B) with respect to a claim, the Secretary shall assign such rating and combine such rating with the rating or ratings previously assigned under paragraph (1)(A) with respect to that claim.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to claims filed on or after the date that is 60 days after the date of the enactment of this Act.

SEC. 202. CLARIFICATION THAT REQUIREMENT OF SECRETARY OF VETERANS AFFAIRS TO PROVIDE NOTICE TO CLAIMANTS OF ADDITIONAL INFORMATION AND EVIDENCE REQUIRED ONLY APPLIES WHEN ADDITIONAL INFORMATION OR EVIDENCE IS ACTUALLY REQUIRED.

(a) IN GENERAL.—Section 5103(a)(1) of title 38, United States Code, is amended by striking the first sentence and inserting the following: ''If the Secretary receives a complete or substantially complete application that does not include information or medical or lay evidence not previously provided to the Secretary that is necessary to substantiate the claim, the Secretary shall, upon receipt of such application, notify the claimant and the claimant's representative, if any, that such information or evidence is necessary to substantiate the claim.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to claims filed on or after the date that is 60 days after the date of the enactment of this Act.

SEC. 203. EQUAL DEFERENCE TO PRIVATE MEDICAL OPINIONS IN ASSESSING CLAIMS FOR DISABILITY COMPENSATION.

(a) PROVISION OF DEFERENCE.—

(1) IN GENERAL.—Subchapter I of chapter 51 of title 38, United States Code, is amended by inserting after section 5103A the following new section:

''§ 5103B. Treatment of private medical opinions

''(a) IN GENERAL.—If a claimant submits a private medical opinion in support of a claim for disability compensation in accordance with standards established by the Secretary, such opinion shall be treated by the Secretary with the same deference as a medical opinion provided by a Department health care provider.

''(b) SUPPLEMENTAL INFORMATION.—(1) If a private medical opinion submitted as described in subsection (a) is found by the Secretary to be competent, credible, and probative, but otherwise not entirely adequate for purposes of assigning a disability rating and the Secretary determines a medical opinion from a Department health care provider is necessary for such purpose, the Secretary shall obtain from an appropriate Department health care provider (as determined pursuant to the standards described in subsection (a)) a medical opinion that is adequate for such purposes.

''(2) If the Secretary obtains a medical opinion from a Department health care provider under paragraph (1), the Secretary shall ensure that the medical opinion is obtained from a health care provider of the Department that has professional qualifications that are at least equal to the qualifications of the provider of the private medical opinion described in such paragraph.

''(c) DEPARTMENT HEALTH CARE PROVIDER DEFINED.—In this section, the term 'Department health care provider' includes a provider of health care who provides health care under contract with the Department.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of such title is amended by inserting after the item relating to section 5103A the following new item:

''5103B. Treatment of private medical opinions.''.

(3) EFFECTIVE DATE.—Section 5103B of such title, as added by paragraph (1), shall take effect on the date of the enactment of this Act, and shall apply with respect to claims pending or filed on or after the date that is 270 days after the date of the enactment of this Act.

(b) NOTICE.—

(1) IN GENERAL.—Section 5103(a) of such title is amended by adding at the end the following new paragraph:

''(3) A notice provided under this subsection shall inform a claimant, as the Secretary considers appropriate with respect to the claimant's claim—

''(A) of the rights of the claimant to assistance under section 5103A of this title; and

''(B) if the claimant submits a private medical opinion in support of a claim for disability compensation, how such medical opinion will be treated under section 5103B of this title.''.

(2) EFFECTIVE DATE.—Paragraph (3) of such section 5103(a), as added by paragraph (1), shall take effect on the date that is 270 days after the date of the enactment of this Act.

SEC. 204. IMPROVEMENTS TO DISABILITY COMPENSATION CLAIM REVIEW PROCESS.

(a) ESTABLISHMENT OF FAST TRACK CLAIM REVIEW PROCESS.—

(1) IN GENERAL.—Subchapter I of chapter 51 of title 38, United States Code, is amended by inserting after section 5103B, as added by section 203 of this Act, the following new section:

''§ 5103C. Expedited review of initial claims for disability compensation

''(a) PROCESS REQUIRED.—The Secretary shall establish a process for the rapid identification of initial claims for disability compensation that should, in the adjudication of such claims, receive priority in the order of review.

''(b) REVIEW OF INITIAL CLAIMS.—As part of the process required by subsection (a), the Secretary shall assign employees of the Department who are experienced in the processing of claims for disability compensation to carry out a preliminary review of all initial claims for disability compensation submitted to the Secretary in order to identify whether—

''(1) the claims have the potential of being adjudicated quickly;

''(2) the claims qualify for priority treatment under paragraph (2) of subsection (c); and

''(3) a temporary disability rating could be assigned with respect to the claims under section 1156 of this title.

''(c) PRIORITY IN ADJUDICATION OF INITIAL CLAIMS.—(1) As part of the process required by subsection (a) and except as provided in paragraph (2), the Secretary shall, in the adjudication of initial claims for disability compensation submitted to the Secretary, give priority in the order of review of such claims to claims identified under subsection (b)(1) as having the potential of being adjudicated quickly.

''(2) The Secretary may, under regulations the Secretary shall prescribe, provide priority in the order of review of initial claims for disability compensation for the adjudication of the following:

''(A) Initial claims for disability compensation submitted by homeless claimants.

''(B) Initial claims for disability compensation submitted by veterans who are terminally ill.

''(C) Initial claims for disability compensation submitted by claimants suffering severe financial hardship.

''(D) Partially adjudicated claims for disability compensation under section 1157(b) of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of such title is amended by inserting after the item relating to section 5103B, as so added, the following new item:

''5103C. Expedited review of initial claims for disability compensation.''.

(3) EFFECTIVE DATE.—Section 5103C of such title, as added by paragraph (1), shall take effect on the date that is 90 days after the date of the enactment of this Act.

(b) AUTHORITY FOR CLAIMANTS TO END DEVELOPMENT OF CLAIMS.—

(1) IN GENERAL.—Such subchapter is further amended by inserting after section 5103C, as added by subsection (a), the following new section:

''§ 5103D. Procedures for fully developed claims

''Upon notification received from a claimant that the claimant has no additional information or evidence to submit, the Secretary may determine that the claim is a fully developed claim. The Secretary shall then undertake any development necessary for any Federal records, medical examinations, or opinions relevant to the claim and may decide the claim based on all the evidence of record.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of such title is amended by inserting after the item relating to section 5103C, as added by subsection (a), the following new item:

''5103D. Procedures for fully developed claims.''.

(3) EFFECTIVE DATE.—Section 5103D of such title, as added by paragraph (1), shall take effect on the date of the enactment of this Act.

SEC. 205. PROVISION BY SECRETARY OF VETERANS AFFAIRS OF NOTICE OF DISAGREEMENT FORMS TO INITIATE APPELLATE REVIEW WITH NOTICES OF DECISIONS OF DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Section 5104 of title 38, United States Code, is amended—

(1) in subsection (a), by striking the second sentence; and

(2) in subsection (b), by striking ''also include (1) a'' and all that follows and inserting the following: ''include the following:

''(1) A statement of the reasons for the decision.

''(2) A summary of the evidence relied upon by the Secretary in making the decision.

''(3) An explanation of the procedure for obtaining review of the decision.

''(4) A form that, once completed, can serve as a notice of disagreement under section 7105(a) of this title.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 206. MODIFICATION OF FILING PERIOD FOR NOTICE OF DISAGREEMENT TO INITIATE APPELLATE REVIEW OF DECISIONS OF DEPARTMENT OF VETERANS AFFAIRS.

(a) FILING OF NOTICE OF DISAGREEMENT BY CLAIMANTS.—

(1) IN GENERAL.—Paragraph (1) of section 7105(b) of title 38, United States Code, is amended—

(A) by striking ''one year'' and inserting ''180 days'' in the first sentence; and

(B) by striking ''one-year'' and inserting ''180-day'' in the third sentence.

(2) ELECTRONIC FILING.—Such paragraph is further amended by inserting ''or transmitted by electronic means'' after ''postmarked''.

(3) GOOD CAUSE EXCEPTION FOR UNTIMELY FILING OF NOTICES OF DISAGREEMENT.—Such section 7105(b) is amended by adding at the end the following new paragraph:

''(3)(A) A notice of disagreement not filed within the time prescribed by paragraph (1) shall be treated by the Secretary as timely filed if—

''(i) the Secretary determines that the claimant, legal guardian, or other accredited representative, attorney, or authorized agent filing the notice had good cause for the lack of filing within such time; and

''(ii) the notice of disagreement is filed not later than 186 days after the period prescribed by paragraph (1).

''(B) For purposes of this paragraph, good cause shall include the following:

''(i) Circumstances relating to any physical, mental, educational, or linguistic limitation of the claimant, legal guardian, representative, attorney, or authorized agent concerned (including lack of facility with the English language).

''(ii) Circumstances relating to significant delay in the delivery of the initial decision or of the notice of disagreement caused by natural disaster or factors relating to geographic location.

''(iii) A change in financial circumstances, including the payment of medical expenses or other changes in income or net worth that are considered in determining eligibility for benefits and services on an annualized basis for purposes of needs-based benefits under chapters 15 and 17 of this title.''.

(b) APPLICATION BY DEPARTMENT FOR REVIEW ON APPEAL.—Section 7106 of such title is amended in the first sentence by striking ''one-year period described in section 7105'' and inserting ''period described in section 7105(b)(1)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply with respect to claims filed on or after the date of the enactment of this Act.

SEC. 207. MODIFICATION OF SUBSTANTIVE APPEAL PROCESS.

(a) IN GENERAL.—Section 7105 of title 38, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (3), by striking ''The claimant will be afforded'' and all that follows through the end of the paragraph; and

(B) by striking paragraphs (4) and (5); and

(2) by adding at the end the following new subsection:

''(e)(1) A claimant shall be afforded a period of 60 days from the date the post-notice of disagreement decision is mailed under subsection (d) to file a substantive appeal.

''(2)(A) The period under paragraph (1) may be extended for an additional 60 days for good cause shown on a request for such extension submitted in writing within such period.

''(B) For purposes of this paragraph, good cause shall include the following:

''(i) Circumstances relating to any physical, mental, educational, or linguistic limitation of the claimant, legal guardian, or other accredited representative, attorney, or authorized agent filing the request (including lack of facility with the English language).

''(ii) Circumstances relating to significant delay in the delivery of the initial decision or of the notice of disagreement caused by natural disaster or factors relating to geographic location.

''(iii) A change in financial circumstances, including the payment of medical expenses or other changes in income or net worth that are considered in determining eligibility for benefits and services on an annualized basis for purposes of needs-based benefits under chapters 15 and 17 of this title.

''(3) A substantive appeal under this subsection shall identify the particular determination or determinations being appealed and allege specific errors of fact or law made by the agency of original jurisdiction in each determination being appealed.

''(4) A claimant in any case under this subsection may not be presumed to agree with any statement of fact contained in the post-notice of disagreement decision to which the claimant does not specifically express disagreement.

''(5) If the claimant does not file a substantive appeal in accordance with the provisions of this chapter within the period afforded under paragraphs (1) and (2), as the case may be, the agency of original jurisdiction shall dismiss the appeal and notify the claimant of the dismissal. The notice shall include an explanation of the procedure for obtaining review of the dismissal by the Board of Veterans' Appeals.

''(6) In order to obtain review by the Board of a dismissal of an appeal by the agency of original jurisdiction, a claimant shall file a request for such review with the Board within the 60-day period beginning on the date on which notice of the dismissal is mailed pursuant to paragraph (5).

''(7) If a claimant does not file a request for review by the Board in accordance with paragraph (6) within the prescribed period or if such a request is timely filed and the Board affirms the dismissal of the appeal, the determination of the agency of original jurisdiction regarding the claim for benefits under this title shall become final and the claim may not thereafter be reopened or allowed, except as may otherwise be provided by regulations not inconsistent with this title.

''(8) If an appeal is not dismissed by the agency of original jurisdiction, the Board may nonetheless dismiss any appeal which is—

''(A) untimely; or

''(B) fails to allege specific error of fact or law in the determination being appealed.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to claims filed on or after the date that is 180 days after the date of the enactment of this Act.

SEC. 208. PROVISION OF POST-NOTICE OF DISAGREEMENT DECISIONS TO CLAIMANTS WHO FILE NOTICE OF DISAGREEMENTS.

(a) IN GENERAL.—Section 7105 of title 38, United States Code, is amended—

(1) by striking ''statement of the case'' each place it appears and inserting ''post-notice of disagreement decision''; and

(2) in subsection (d), as amended by section 207 of this Act—

(A) in paragraph (1), by striking subparagraphs (A) through (C) and inserting the following new subparagraphs:

''(A) A description of the specific facts in the case that support the agency's decision, including, if applicable, an assessment as to the credibility of any lay evidence pertinent to the issue or issues with which disagreement has been expressed.

''(B) A citation to pertinent laws and regulations that support the agency's decision.

''(C) A statement that addresses each issue and provides the reasons why the evidence relied upon supports the conclusions of the agency under the specific laws and regulations applied.

''(D) The date by which a substantive appeal must be filed in order to obtain further review of the decision.''; and

(B) by adding at the end the following new paragraph:

''(4) The post-notice of disagreement decision shall be written in plain language.''.

(b) CONFORMING AMENDMENT.—Section 7105A of such title is amended by striking ''statement of the case'' each place it appears and inserting ''post-notice of disagreement decision''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply with respect to notices of disagreements filed on or after the date that is 180 days after the date of the enactment of this Act.

SEC. 209. AUTOMATIC WAIVER OF AGENCY OF ORIGINAL JURISDICTION REVIEW OF NEW EVIDENCE.

(a) IN GENERAL.—Section 7105 of title 38, United States Code, as amended by section 207 of this Act, is further amended by adding at the end the following new subsection:

''(f) If, either at the time or after the agency of original jurisdiction receives a substantive appeal, the claimant or the claimant's representative, if any, submits evidence to either the agency of original jurisdiction or the Board of Veterans' Appeals for consideration in connection with the issue or issues with which disagreement has been expressed, such evidence shall be subject to initial review by the Board unless the claimant or the claimant's representative, as the case may be, requests in writing that the agency of original jurisdiction initially review such evidence. Such request for review shall accompany the submittal of the evidence or be made within 30 days of the submittal.''.

(b) EFFECTIVE DATE.—Subsection (f) of such section, as added by subsection (a), shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply with respect to claims for which a substantive appeal is filed on or after the date that is 180 days after the date of the enactment of this Act.

SEC. 210. AUTHORITY FOR BOARD OF VETERANS' APPEALS TO DETERMINE LOCATION AND MANNER OF APPEARANCE FOR HEARINGS.

(a) LOCATION.—Subsection (d) of section 7107 of title 38, United States Code, is amended—

(1) in paragraph (1), by striking ''An appellant'' and all that follows through the end and inserting the following: ''Upon request by an appellant for a hearing before the Board, the Board shall determine whether the hearing will be held at its principal location or at a facility of the Department, or other appropriate Federal facility, located within the area served by a regional office of the Department as the Secretary considers most appropriate to schedule the earliest possible date for the hearing.''; and

(2) by adding at the end the following new paragraph:

''(4) A determination by the Board under paragraph (1) with respect to the location of a hearing shall be final unless the appellant demonstrates, on motion, good cause or special circumstances warranting a different location.''.

(b) MANNER OF APPEARANCE.—Subsection (e) of such section is amended—

(1) in paragraph (2)—

(A) by striking ''afford the appellant an opportunity'' and inserting '', as the Chairman determines appropriate, require the appellant''; and

(B) by striking the last sentence; and

(2) by adding at the end the following new paragraph:

''(3) A determination by the Chairman under paragraph (2) with respect to the participation of an appellant in a hearing shall be final unless the appellant demonstrates, on motion, good cause or special circumstances warranting a different determination.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply with respect to requests for hearings filed on or after the date that is 180 days after the date of the enactment of this Act.

SEC. 211. DECISION BY COURT OF APPEALS FOR VETERANS CLAIMS ON ALL ISSUES RAISED BY APPELLANTS.

Section 7261 of title 38, United States Code, is amended—

(1) in subsection (a), in the matter before paragraph (1), by striking '', to the extent necessary to its decision and when presented, shall'' and inserting ''shall, when presented'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection (c):

''(c) In carrying out a review of a decision of the Board of Veterans' Appeals, the Court shall render a decision on every issue raised by an appellant within the extent set forth in this section.''.

SEC. 212. GOOD CAUSE EXTENSION OF PERIOD FOR FILING NOTICE OF APPEAL WITH UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.

(a) IN GENERAL.—Section 7266 of title 38, United States Code, is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(2) by inserting after subsection (a) the following new subsection (b):

''(b)(1) The Court may extend the initial period for the filing of a notice of appeal set forth in subsection (a) for an additional period not to exceed 120 days from the expiration of such initial period upon a motion—

''(A) filed with the Court not later than 120 days after the expiration of such initial period; and

''(B) showing good cause for such extension.

''(2) If a motion for extension under paragraph (1) is filed after expiration of the initial period for the filing of a notice of appeal set forth in subsection (a), the notice of appeal shall be filed concurrently with, or prior to, the filing of the motion.''; and

(3) in subsection (e), as redesignated by paragraph (1), by striking ''subsection (c)(2)'' and inserting ''subsection (d)(2)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply with respect to notices of appeal filed on or after the date of the enactment of this Act.

SEC. 213. PILOT PROGRAM ON PARTICIPATION OF LOCAL AND TRIBAL GOVERNMENTS IN IMPROVING QUALITY OF CLAIMS FOR DISABILITY COMPENSATION SUBMITTED TO DEPARTMENT OF VETERANS AFFAIRS.

(a) PILOT PROGRAM REQUIRED.—The Secretary of Veterans Affairs shall carry out a pilot program to assess the feasibility and advisability of entering into memorandums of understanding with local governments and tribal organizations—

(1) to improve the quality of claims submitted to the Secretary for compensation under chapter 11 of title 38, United States Code; and

(2) to provide assistance to veterans who may be eligible for such compensation in submitting such claims .

(b) MINIMUM NUMBER OF PARTICIPATING TRIBAL ORGANIZATIONS.—In carrying out the pilot program required by subsection (a), the Secretary shall enter into memorandums of understanding with at least two tribal organizations.

(c) TRIBAL ORGANIZATION DEFINED.—In this section, the term ''tribal organization'' has the meaning given that term in section 3765 of title 38, United States Code.

By Mr. LEAHY (for himself, Mr. SESSIONS, Mr. SPECTER, Mr. SCHUMER, and Mr. LIEBERMAN):

S. 3518. A bill to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments in United States Courts where those judgments undermine the first amendment to the Constitution of the United States, and to provide a cause of action for declaratory judgment relief against a party who has brought a successful foreign defamation action whose judgment undermines the first amendment; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, two years ago the United Nations' Human Rights Committee observed a problem that ''discourage[d] critical media reporting on matters of serious public interest, adversely affect[ed] the ability of scholars and journalists to publish their work,'' and ''affect[ed] freedom of expression worldwide on matters of valid public interest.'' That problem was ''libel tourism,'' a troubling trend of foreign lawsuits that have stifled Americans' First Amendment rights. Today, I am introducing legislation to put a stop to this harmful trend.

The First Amendment is a cornerstone of American democracy. Freedom of speech and the press enable vigorous debate over issues of national importance, and enable an exchange of ideas that shapes our political process. Authors, reporters and publishers are primary sources of this information, and their ability to disseminate their writings is critical to our democracy.

Over recent years, American authors, reporters and publishers have fallen victim to libel lawsuits in countries with significantly weaker free speech protections that what our First Amendment affords. In many cases, the foreign plaintiff sought out that country, where there is no regard for freedom of the press, so that they could easily prevail. These suits occur regardless of whether the plaintiff or the publication has significant connections to the foreign forum. On a broad scale, this results in a race to the bottom, and causes U.S. persons to defer to the country with the most chilling and restrictive free speech standard, to determine what they can or cannot write or publish. This is libel tourism. As the son of a printer, I consider this a matter of great national importance.

Today, I am introducing with Senators SESSIONS, SPECTER, SCHUMER and LIEBERMAN legislation that will ensure American authors, journalists and publishers are shielded from the chilling effects of libel tourism. This legislation guarantees that a foreign defamation judgment cannot be enforced in the United States if that country's libel standards are inconsistent with American law. Our legislation also provides American victims of unconstitutional libel suits the opportunity to clear their name by filing for a declaratory judgment in an American court.

Over the past several years, the problem of libel tourism has grown. Today, countries whose weak libel laws impact American authors are no longer confined to a small number. England, Brazil, Australia, Indonesia, and Singapore are just a few of the countries whose weak libel protections have attracted libel lawsuits against American journalists and authors. This threat to American free speech must end, and the time to act is now.

New accounts of libel tourism lawsuits emerge every day. This is because the dissemination of materials through the Internet, as well as the increased number of worldwide newspapers and periodicals, has compounded their threat. The likelihood that a book or story will have some contact with a foreign country is simply that much higher, as is the probability that a foreign court will determine that it has a basis for asserting jurisdiction over an American author or publisher. As we heard at a recent Judiciary Committee hearing, this has a dramatic chilling effect on Americans' free speech.

The impact and extreme nature of these foreign libel lawsuits is best understood through examples. The most well known is the case of American journalist Rachel Ehrenfeld, who wrote a book about the financiers of the 9/11 attacks. She did not market her book in England yet was sued for libel there by a Saudi businessman she linked to terrorism. The content of her publication would have been protected under our laws, but a British court applying its laws issued a multimillion dollar default judgment against her. Today, Ms. Ehrenfeld continues to experience reluctance from American publishers who fear that plaintiffs will target her and bring another libel action against anything she writes on the subject of terrorism financing.

The scientific community has also been affected by libel tourism. An article last year in New Scientist magazine notes that now ''Challenging the scientific validity of a product or claim can be fraught with danger. . . [because] such challenges are leaving scientists and science writers [to] fac[e] an expensive libel action before the English high court. Many individuals and publications have been threatened with libel actions, and some have had proceedings launched against them. Many more writers have had their work edited before publication to avoid any risk of such legal action.'' Publications exposing financial improprieties, consumer protection issues, medical malpractice, and sexual abuse have all fallen victim to libel tourism lawsuits around the world.

Even Roman Polanski sued Vanity Fair for libel in England. Mr. Polanski, a fugitive from justice who fled America after being convicted of sexually abusing a young girl, filed the suit in 2004. He has fought extradition while living in Europe. The Vanity Fair article recounted a story of his alleged aggressive sexual advances made just after his wife was murdered, and portrayed him as being insensitive to her death. The article was written in the U.S., edited in the U.S., and primarily sold in the U.S., but the British court claimed jurisdiction, and ruled in favor of Mr. Polanski.

Foreign libel judgments impact American authors' livelihood, credibility and employment potential. They also have the potential to limit the types of books and articles that talented and reputable authors can get published in the future. But most importantly, their suppression limits the information that Americans have a constitutional right to access. Journalists writing about issues of national security and safety should not be chilled. These lawsuits are designed to stifle the dissemination of that information in both the United States and the world. Journalists willing to investigate and write about such important issues deserve protection.

I am encouraged that some countries have taken steps to strengthen their

libel protections and jurisdictional requirements in the wake of these lawsuits, but that is not enough. As one country tightens its libel protections, another may just emerge as the next-best-available forum of choice for libel plaintiffs willing to travel to file suit.

I want to thank the ranking member of the Judiciary Committee, Senator SESSIONS, for working with me on this legislation. I also want to thank Senators SCHUMER and SPECTER, for their support in moving toward a legislative compromise on this important issue. Their bills provided a valuable basis from which the bipartisan compromise that we are introducing today emerged.

We cannot legislate changes to foreign law that are chilling protected speech in our country. What we can do, however, is ensure that our courts do not become a tool to uphold foreign libel judgments that undermine our First Amendment or due process rights. We can also provide American authors and reporters the ability to clear their name in our courts.

I hope all Senators will support our bipartisan effort to pass this important legislation this summer to protect the free speech rights of all Americans.

By Ms. SNOWE (for herself, Mr. KOHL, and Mr. LIEBERMAN):

S. 3519. A bill to stabilize the matching requirement for participants in the Hollings Manufacturing Partnership Program; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, today I am introducing legislation, along with Senators KOHL and LIEBERMAN, to reduce the cost share amount that Manufacturing Extension Partnership, or MEP, centers face in obtaining their annual funding. The MEP is a nationwide public-private network of counseling and assistance centers that offer our nation's nearly 350,000 small and medium manufacturers services and access to resources that enhance growth, improve productivity, and expand capacity. In Fiscal Year 2009 alone, MEP clients created or retained roughly 53,000 jobs; provided cost savings in excess of $1.41 billion; and generated over $9.1 billion in sales. Similarly, clients of the Maine MEP reported saving or retaining 550 jobs, experiencing $8.3 million in cost savings, and generating over $78.3 million in sales in 2009. As such, the MEP's contribution to the health of American manufacturing is indisputable.

At present, individual MEP centers must raise a full 2/3 of their funding after their fourth year of operation, placing a heavy burden on these centers. The National Institute of Standards and Technology, NIST, at the Department of Commerce, in turn, provides one-third of the centers' funding. MEP centers can meet their portion of the cost share requirement through funds from universities, State and local governments, and other institutions.

In today's tumultuous economy, these centers are experiencing increased difficulties finding adequate funding from both private and public sources. As economic concerns weigh down on all of us, states, organizations, and groups that traditionally assist MEP centers in meeting this cost share are reluctant to expend the money—or do not have the resources to do so.

Our bill, which is a modified version of S. 695 that I and several of my colleagues introduced last March, is simple and straightforward. It would reduce the statutory cost share that MEP centers face to 50 percent for fiscal years 2011 through 2013 as a temporary stimulative measure. Frankly, the Nation's MEP centers are subject to an unnecessarily restrictive cost share requirement. And it is inequitable, as the MEP is the only initiative out of the 80 programs funded by the Department of Commerce that is subject to a statutory cost share of greater than 50 percent. There is no reason for this to persist, particularly not during this trying economy when so many manufacturers are trying to remain afloat.

Clearly, Congress must act swiftly to bolster our country's manufacturing industry rather than sitting on the sidelines as other countries surpass our nation's economic leadership in a variety of areas. Indeed, last Sunday's Financial Times included an article titled ''US manufacturing crown slips'' highlighting that, ''The U.S. remained the world's biggest manufacturing nation by output last year, but is poised to relinquish this slot in 2011 to China—thus ending a 110-year run as the number one country in factory production.'' This news should be a clarion call that investing in the manufacturing sector is critical given the detrimental ramifications that losing our leadership would have to our overall economy.

The MEP is an essential resource for the small and medium manufacturers that will help reinvigorate our Nation's economy. With centers in all 50 states, as well as Puerto Rico, its reach is unmatched and its experience in counseling manufacturers is unrivaled. It is my hope that my colleagues will support this legislation as a direct way to bolster an industry that is indispensible to our nation's economy health.

By Ms. MURKOWSKI:

S. 3521. A bill to provide for the reestablishment of a domestic rare earths materials production and supply industry in the United States, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, I rise today to introduce legislation in the Senate to help the United States minerals industry resume production of rare earths in this country. These metals are increasingly important to our military, strategic, and economic priorities due to their use in clean energy technologies and many other high-tech applications.

For many years the United States was a leader in the mining and processing of rare earths—a group of 17 elements that, while widespread in nature, are difficult to find in concentration, extract from the earth, and process for commercial use. Rare earths are increasingly vital to a host of modern defense technologies, from radar and sonar systems to weapons systems and advanced lasers. They are essential to the production of clean energy technologies, including advanced batteries, electric motors, high-efficiency light bulbs, solar panels, and wind turbines.

The U.S. is estimated to contain 15 percent of the world's rare earth reserves, but with the closure of the nation's only operating rare earth mine at Mountain Pass, CA, America has become dependent upon China for imports of nearly all rare earths, oxides, and alloys. In fact, China now produces 97 percent of the world's rare earth supply.

More importantly, China recently moved to implement rules announced in March that will cut production and exportation of rare earths in an effort to raise world prices for the minerals. While the world demand for rare earths tripled to 120,000 tons per year over the past decade, China announced on June 2nd that it will stop issuing new domestic licenses for rare earth production and cap production at 89,200 tons for this year. As a result, only 35,000 tons of rare earths will be exported annually over the next five years, on average.

These actions may work out well for China, but they will harm the United States. Fortunately, we can do something about it. Rather than sit on our hands while China corners the market on these strategic minerals, we can and should pursue timely production of the rare earth supplies that exist within our own borders.

Efforts are currently underway to reopen Molycorp Minerals' California mine and Ucore Uranium is continuing exploration of a large rare earth deposit found near Bokan Mountain in Alaska, about 37 miles from Ketchikan. Ucore's new Alaska subsidiary, Rare Earth One LLC, has been working to study the deposit on Dotson Ridge at Bokan Mountain since 2007. The U.S. Bureau of Mines more than 20 years ago estimated the site contains at least 374 million pounds of recoverable rare earths, which is more than enough to break China's stranglehold on the market and protect America's access to the rare earths that are vital to the production of cutting-edge technologies in this country.

So what should we be doing to reestablish domestic rare earth? My answer is a companion measure to legislation introduced earlier this spring in the House by Rep. MIKE COFFMAN, a fellow Republican from Colorado. My bill would establish it as the policy of the

United States to take appropriate actions to increase investment in, exploration for, and development of domestic rare earths. To do that it would require—under the leadership of the Secretary of the Interior—the Secretaries of Energy, Agriculture, Defense, Commerce, and State along with the Director of OMB and the Chairman of CEQ to expedite permitting, review supply chains, and consider strategic stockpiling of rare earths. The bill would also provide the rare earth industry with access to federal loan guarantee programs meant to advance clean energy technologies.

There is a great deal of emphasis on the need for expansion of clean energy manufacturing in the United States. Promises of ''green jobs'' abound, but they will only be realized if American industries have access to the raw materials needed to produce these new technologies. This legislation represents an important first step in our efforts to grow domestic manufacturing of clean energy technologies. The bill will also help to create more jobs in America's minerals industry, where firms provide good, high-wage jobs and pay taxes that will help to reduce our deficit. Furthermore, decreasing our reliance on foreign minerals will reduce our balance of payments deficit and strengthen national security.

I hope this bill advances quickly, and I encourage my colleagues to join as cosponsors of the measure. We have an ambitious agenda given the small amount of time that remains in the current Congress, but there is too much at stake for our military strength and our clean energy goals to ignore the problems we have in accessing affordable and secure supplies of rare earths.

By Mr. FRANKEN (for himself, Mr. KOHL, Mr. MENENDEZ, Ms. KLOBUCHAR, Mr. FEINGOLD, Mr. DURBIN, and Mrs. FEINSTEIN):

S. 3522. A bill to protect children affected by immigration enforcement actions, and for other purposes; to the Committee on the Judiciary.

Mr. FRANKEN. Mr. President, on December 12, 2006, Immigration and Customs Enforcement staged raids on Swift & Company meatpacking plants in six states—Colorado, Iowa, Nebraska, Texas, Utah, and my home State of Minnesota.

Over 1,500 unauthorized immigrants were arrested in these raids. They also left countless children—most of them citizens and legal residents—without their parents and with no way of finding them. One second-grader in Worthington, MN—a U.S. citizen—came home that Tuesday night to find his 2-year-old brother alone and his mother and father missing.

For the next week, this boy stayed at home caring for his 2-year-old brother while his grandmother traveled to Worthington to care for her grandchildren.

On June 22, 2007, ICE agents staged another raid, this one in the Jackson Heights Manufactured Home Park in Shakopee, MN. Early that Friday morning, around 6 a.m., Federal agents seized a husband and his wife for suspected immigration violations. Somehow, they didn't even notice their daughter, who was sleeping. So later that morning, that 7-year-old girl was found wandering the park, looking for her parents.

Stories like these happen every day. They are happening to innocent children, most of them United States citizens. Children who have committed no crime, who have hurt no one, but who have had their lives torn apart because of the sins of their parents.

According to the U.S. Customs and Immigration Service, over 100,000 parents of U.S. citizen children were deported in the past 10 years. Four million U.S. citizen children in our country have at least one undocumented immigrant parent. Forty thousand of those children live in Minnesota.

Our country is not doing enough to protect these innocent kids. That is why Senator KOHL and I have crafted a bill to fix that.

So I am proud to stand today with Senators KOHL, MENENDEZ, KLOBUCHAR, FEINGOLD, DURBIN and FEINSTEIN to introduce the Humane Enforcement and Legal Protections for Separated Children Act, or the HELP Separated Children Act. This is a simple but strong bill to protect our Nation's kids from unnecessary harm from immigration enforcement actions.

I want to take a few moments to talk about what this bill does—the problems it solves, and how it solves them.

But before I do that, I want to take a second to talk about what this bill does not do. This bill is strictly about protecting children. It doesn't change our laws on immigrant admission, exclusion, or removal. No one is going to get in or stay in this country because of this bill. It has nothing to do with so-called amnesty or any decisions about deportation.

So what does this bill actually do?

This bill fixes four problems in our immigration enforcement system.

The first problem is notice to State authorities. Invariably, in almost all immigration enforcement actions, it is our local communities that have to clean up after the government's dirty work.

It's state and child welfare services that take in kids who have lost their mom or dad in a raid. It's local shelters and churches that feed those kids—again, most of whom are citizens—when their family breadwinner is taken away. And it's local schools that have to take care of kids when no one picks them up after soccer practice.

After the Swift raids, the Bush administration finally understood this. And so in 2007, it put in place humanitarian guidelines that call upon ICE to reach out to state authorities and child welfare services before major enforcement actions. Again, that is the Bush administration. President Obama expanded these guidelines in 2009 so that they would cover more worksite actions.

But it still isn't enough. Local authorities still don't find out about actions until way too late—and when they are notified, they aren't given enough time to help. In 2008, after these guidelines were put into place, the New Mexico Children, Youth, and Families Department testified before the House of Representatives that they still did not receive notice of enforcement actions before they happened.

State authorities in Massachusetts were notified months ahead of a raid in New Bedford. But almost immediately after it happened, the detainees were transferred to Texas, leaving state agencies unable to help. Governor Deval Patrick called it a ''race to the airport.''

Our bill makes sure that whenever possible, the Governor, local and state law enforcement, and child welfare agencies find out about raids ahead of time. It also makes sure that schools and community centers are notified after these actions so that they too can help.

That brings me to the second problem. If they want to help, state child welfare agencies and community organizations must be allowed to help identify detainees who have children at home. Mothers and fathers detained in enforcement actions often don't tell ICE agents that they have children at home—because they are afraid that ICE will detain them, too.

As Troy Tucker, the sheriff of Clark County, Arkansas said after an action there, ICE is ''not doing their job by simply questioning [people] and asking them whether they have children and not contacting anyone locally.''

Even though the Bush administration guidelines allow state authorities and local non-profits to help screen detainees, this is not happening often enough. So our bill requires ICE and State agencies enforcing immigration laws to allow these groups to confidentially screen detainees and identify those who have kids at home.

Our bill makes another critical fix in our immigration enforcement system. The Bush and ICE detention guidelines require authorities to give detainees free emergency phone calls. But again, it isn't being done enough, and it isn't being done right.

In the Swift raid in Worthington, one mother told ICE agents that she had kids at home, but still wasn't allowed to call them or let anyone know what had happened until later the next day. In Iowa, after a raid in Postville, some children went 72 hours without seeing their parents or knowing what happened to them.

Any parent knows how scared kids get just when you come home late. Can you imagine how scared they would get if you went missing for a whole day? For 3 days? Can you imagine what would happen if they didn't know who to call? Can you imagine what would

happen if they didn't have anything to eat?

Our bill requires Federal and State authorities to allow parents, legal guardians, or primary caregivers to make free phone calls to their family, to lawyers, and to child welfare agencies to make sure that their kids aren't abandoned.

Finally, our bill averts one other major problem.

When a parent is detained, even if their kids know where they are, it is still extremely difficult for kids and parents to stay in contact. And it is extremely difficult for parents to participate in legal proceedings that affect their kids.

This means that parents can't tell a family court judge about a brother or sister or neighbor that could take care of their child. Children have actually been adopted by well-meaning families or put into foster care because their parents were unable to participate in custody proceedings.

Our bill makes sure that after they're detained, parents can continue to have access to phones to call their kids, their lawyers, and family courts. Our bill also requires ICE to consider the best interests of children in decisions to transfer detainees between facilities, or put them into reliable and cost-effective supervised release programs.

Our immigration system isn't broken. It is in shambles. And while our bill doesn't fix 99.9 percent of those problems, it takes a small but important step to make sure our kids don't suffer any more than they have to already.

I am proud to say that because this is such a critical, albeit narrowly targeted measure, our bill has gained the support of the top faith, child welfare, and immigrant advocacy organizations in the country.

I'm also proud to say that it has won the support of faith leaders across Minnesota, the Minnesota Chamber of Commerce, Chief Tom Smith of the St. Paul Police Department, and countless immigrant advocacy groups in the State.

While immigration may be complicated, protecting our kids isn't. It's something we can all agree on.

Mr. President, I ask unanimous consent that the text of the bill and a list of supporters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Humane Enforcement and Legal Protections for Separated Children Act'' or the ''HELP Separated Children Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPREHENSION.—The term ''apprehension'' means the detention, arrest, or custody by officials of the Department of Homeland Security or cooperating entities.

(2) CHILD.—The term ''child'' has the meaning given to the term in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).

(3) CHILD WELFARE AGENCY.—The term ''child welfare agency'' means the State or local agency responsible for child welfare services under subtitles B and E of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(4) COOPERATING ENTITY.—The term ''cooperating entity'' means a State or local entity acting under agreement with, or at the request of, the Department of Homeland Security.

(5) DETENTION FACILITY.—The term ''detention facility'' means a Federal, State, or local government facility, or a privately owned and operated facility, that is used to hold individuals suspected or found to be in violation of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(6) IMMIGRATION ENFORCEMENT ACTION.—The term ''immigration enforcement action'' means the apprehension of, detention of, or request for or issuance of a detainer for, 1 or more individuals for suspected or confirmed violations of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) by the Department of Homeland Security or cooperating entities.

(7) LOCAL EDUCATION AGENCY.—The term ''local education agency'' has the meaning given to the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(8) NGO.—The term ''NGO'' means a nongovernmental organization that provides social services or humanitarian assistance to the immigrant community.

SEC. 3. APPREHENSION PROCEDURES FOR IMMIGRATION ENFORCEMENT-RELATED ACTIVITIES.

(a) NOTIFICATION.—

(1) ADVANCE NOTIFICATION.—Subject to paragraph (2), when conducting any immigration enforcement action, the Department of Homeland Security and cooperating entities shall notify the Governor of the State, the local child welfare agency, and relevant State and local law enforcement before commencing the action, or, if advance notification is not possible, immediately after commencing such action, of—

(A) the approximate number of individuals to be targeted in the immigration enforcement action; and

(B) the primary language or languages believed to be spoken by individuals at the targeted site.

(2) HOURS OF NOTIFICATION.—Whenever possible, advance notification should occur during business hours and allow the notified entities sufficient time to identify resources to conduct the interviews described in subsection (b)(1).

(3) OTHER NOTIFICATION.—When conducting any immigration action, the Department of Homeland Security and cooperating entities shall notify the relevant local education agency and local NGOs of the information described in paragraph (1) immediately after commencing the action.

(b) APPREHENSION PROCEDURES.—In any immigration enforcement action, the Department of Homeland Security and cooperating entities shall—

(1) as soon as possible and not later than 6 hours after an immigration enforcement action, provide licensed social workers or case managers employed or contracted by the child welfare agency or local NGOs with confidential access to screen and interview individuals apprehended in such immigration enforcement action to assist the Department of Homeland Security or cooperating entity in determining if such individuals are parents, legal guardians, or primary caregivers of a child in the United States;

(2) as soon as possible and not later than 8 hours after an immigration enforcement action, provide any apprehended individual believed to be a parent, legal guardian, or primary caregiver of a child in the United States with—

(A) free, confidential telephone calls, including calls to child welfare agencies, attorneys, and legal services providers, to arrange for the care of children or wards, unless the Department of Homeland Security has reasonable grounds to believe that providing confidential phone calls to the individual would endanger public safety or national security; and

(B) contact information for—

(i) child welfare agencies in all 50 States, the District of Columbia, all United States territories, counties, and local jurisdictions; and

(ii) attorneys and legal service providers capable of providing free legal advice or free legal representation regarding child welfare, child custody determinations, and immigration matters;

(3) ensure that personnel of the Department of Homeland Security and cooperating entities do not—

(A) interview individuals in the immediate presence of children; or

(B) compel or request children to translate for interviews of other individuals who are encountered as part of an immigration enforcement action; and

(4) ensure that any parent, legal guardian, or primary caregiver of a child in the United States—

(A) receives due consideration of the best interests of his or her children or wards in any decision or action relating to his or her detention, release, or transfer between detention facilities; and

(B) is not transferred from his or her initial detention facility or to the custody of the Department of Homeland Security until the individual—

(i) has made arrangements for the care of his or her children or wards; or

(ii) if such arrangements are impossible, is informed of the care arrangements made for the children and of a means to maintain communication with the children.

(c) NONDISCLOSURE AND RETENTION OF INFORMATION ABOUT APPREHENDED INDIVIDUALS AND THEIR CHILDREN.—

(1) IN GENERAL.—Information collected by child welfare agencies and NGOs in the course of the screenings and interviews described in subsection (b)(1) about an individual apprehended in an immigration enforcement action may not be disclosed to Federal, State, or local government entities or to any person, except pursuant to written authorization from the individual or his or her legal counsel.

(2) CHILD WELFARE AGENCY OR NGO RECOMMENDATION.—Notwithstanding paragraph (1), a child welfare agency or NGO may—

(A) submit a recommendation to the Department of Homeland Security or cooperating entities regarding whether an apprehended individual is a parent, legal guardian, or primary caregiver who is eligible for the protections provided under this Act; and

(B) disclose information that is necessary to protect the safety of the child, to allow for the application of subsection (b)(4)(A), or to prevent reasonably certain death or substantial bodily harm.

SEC. 4. ACCESS TO CHILDREN, LOCAL AND STATE COURTS, CHILD WELFARE AGENCIES, AND CONSULAR OFFICIALS.

(a) IN GENERAL.—The Secretary of Homeland Security shall ensure that all detention facilities operated by or under agreement with the Department of Homeland Security

implement procedures to ensure that the best interest of the child, including the best outcome for the family of the child, can be considered in any decision and action relating to the custody of children whose parent, legal guardian, or primary caregiver is detained as the result of an immigration enforcement action.

(b) ACCESS TO CHILDREN, STATE AND LOCAL COURTS, CHILD WELFARE AGENCIES, AND CONSULAR OFFICIALS.—At all detention facilities operated by, or under agreement with, the Department of Homeland Security, the Secretary of Homeland Security shall—

(1) ensure that individuals who are detained by reason of their immigration status may receive the screenings and interviews described in section 3(b)(1) not later than 6 hours after their arrival at the detention facility;

(2) ensure that individuals who are detained by reason of their immigration status and are believed to be parents, legal guardians, or primary caregivers of children in the United States are—

(A) permitted daily phone calls and regular contact visits with their children or wards;

(B) able to participate fully, and to the extent possible in-person, in all family court proceedings and any other proceeding impacting upon custody of their children or wards;

(C) able to fully comply with all family court or child welfare agency orders impacting upon custody of their children or wards;

(D) provided with contact information for family courts in all 50 States, the District of Columbia, all United States territories, counties, and local jurisdictions;

(E) granted free and confidential telephone calls to child welfare agencies and family courts;

(F) granted free and confidential telephone calls and confidential in-person visits with attorneys, legal representatives, and consular officials;

(G) provided United States passport applications for the purpose of obtaining travel documents for their children or wards;

(H) granted adequate time before removal to obtain passports and other necessary travel documents on behalf of their children or wards if such children or wards will accompany them on their return to their country of origin or join them in their country of origin; and

(I) provided with the access necessary to obtain birth records or other documents required to obtain passports for their children or wards; and

(3) facilitate the ability of detained parents, legal guardians, and primary caregivers to share information regarding travel arrangements with their children or wards, child welfare agencies, or other caregivers well in advance of the detained individual's departure from the United States.

SEC. 5. MEMORANDA OF UNDERSTANDING.

The Secretary of Homeland Security shall develop and implement memoranda of understanding or protocols with child welfare agencies and NGOs regarding the best ways to cooperate and facilitate ongoing communication between all relevant entities in cases involving a child whose parent, legal guardian, or primary caregiver has been apprehended or detained in an immigration enforcement action to protect the best interests of the child and the best outcome for the family of the child.

SEC. 6. MANDATORY TRAINING.

The Secretary of Homeland Security , in consultation with the Secretary of Health and Human Services and independent child welfare experts, shall require and provide in-person training on the protections required under sections 3 and 4 to all personnel of the Department of Homeland Security and of States and local entities acting under agreement with the Department of Homeland Security who regularly come into contact with children or parents in the course of conducting immigration enforcement actions.

SEC. 7. RULEMAKING.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall promulgate regulations to implement this Act.

SEC. 8. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

NATIONAL ORGANIZATIONS SUPPORTING THE HELP SEPARATED CHILDREN ACT

AFL–CIO; America's Promise Alliance; American Humane Association; American Immigration Lawyers Association; American Muslim Voice; American Nursery & Landscape Association; Amnesty International USA; Arizona Council of Human Service Providers; Asian & Pacific Islander American Health Forum; Asian American Justice Center; Asian Pacific American Labor Alliance; Bridging Group; Catholic Charities USA; Center for Asian Pacific Islander; Center for Farmworker Families; Child Welfare League of America; Church World Service, Immigration and Refugee Program; The Episcopal Church; Every Child Matters Education Fund; Family Violence Prevention Fund; First Focus Campaign for Children; Foster Care Alumni of America; Foster Family-based Treatment Association; Friends Committee on National Legislation; Hebrew Immigrant Aid Society (HIAS); Human Rights Watch; Immigrant Legal Resource Center; Immigration Equality; Juvenile Law Center; Kids in Need of Defense (KIND); Latino Commission on AIDS; Legal Momentum; Lutheran Immigrant and Refugee Service (LIRS); Lutheran Immigration and Refugee Service (LIRS); Mennonite Central Committee U.S.—Washington Office; Midwest Coalition for Human Rights; Moms Rising; National Association for the Education of Homeless Children and Youth; National Association of Social Workers; National Consumers League; National Council of Jewish Women; National Council of La Raza; National Federation of Filipino American Associations; National Foster Care Coalition; National Immigrant Justice Center; National Immigration Forum; National Immigration Law Center; National Korean American Service & Education Consortium; National Latino AIDS Action Network; National Policy Partnership; OCA; Physicians for Human Rights; Saavedra Law Firm; Sargent Shriver National Center on Poverty Law; Sisters of Mercy of the Americas, South Central Community; Sojourners; South Asian Americans Leading Together (SAALT); Southeast Asia Resource Action Center; U.S. Committee for Refugees and Immigrants; Union for Reform Judaism; Unitarian Universalist Association of Congregations; United Methodist Church, General Board of Church and Society; Voices for America's Children; Women's Refugee Commission; Youth Build USA; Zero to Three.

STATE AND LOCAL ORGANIZATIONS SUPPORTING THE HELP SEPARATED CHILDREN ACT

ARIZONA

Arizona Council of Human Service Providers; Children's Action Alliance; Florence Project; Global Family Legal Services; MEChA Arizona Student Union; Tumbleweed, Center for Youth Development.

ARKANSAS

Arkansas Voices.

CALIFORNIA

Asian Law Alliance; California Immigrant Policy Center; Children Now; Coalition for Humane Immigrant Rights of Los Angeles; East Bay Community Law Center; International Institute of the Bay Area; Public Counsel.

COLORADO

Lutheran Advocacy Ministries; Rocky Mountain Immigrant Advocacy Network.

CONNECTICUT

Connecticut Voices for Children.

DISTRICT OF COLUMBIA

Ayuda; The Episcopal Church.

FLORIDA

Florida Immigrant Advocacy Center; Florida Legal Services, Inc.; Gulfcoast Legal Services, Inc.; Legal Aid Society of the Orange County Bar Association, Inc.; Legal Ministry H.E.L.P., Inc.

GEORGIA

Asian American Legal Advocacy Center, Inc. (AALAC) of Georgia; Georgia Rural Urban Summit; Latinos for Education & Justice Organization.

ILLINOIS

Instituto del Progreso Latino; Maria Baldini-Potermin & Associates.

IOWA

Child and Family Policy Center; Lutheran Services in Iowa; National Association of Social Workers, Iowa Chapter.

KENTUCKY

Kentucky Youth Advocates.

LOUISIANA

New Orleans Workers' Center for Racial Justice.

MAINE

Immigrant Legal Advocacy Project; Maine Children's Alliance.

MARYLAND

CASA de Maryland; Lutheran Office on Public Policy.

MICHIGAN

Bethany Children's Services; Immigrant Legal Advocacy Project; Michigan's Children.

MINNESOTA

Advocates for Human Rights; American Immigration Lawyers Association, Minnesota/Dakotas Chapter; Ascension Church; Benedictine-Franciscan Immigrant Justice Commission (St. Joseph & Little Falls, MN); Casa Guadalupana; Catholic Charities of St. Paul & Minneapolis; Center for Asian Pacific Islanders; Center for Mission, Archdiocese of St. Paul and Minneapolis; Children's Defense Fund Minnesota; Children's Law Center of Minnesota; Chinese Social Service Center; Church World Service; Congregational Council, the Miracle Lutheran Church; Department of Social Concerns, Catholic Charities of the Diocese of St. Cloud; Family & Children's Service; Franciscan Sisters of Little Falls; Great River Interfaith Partnership; Hmong American Partnership; Hospitality Minnesota; Immigrant Law Center of Minnesota; Immigration Task Force, Minnesota Conference United Church of Christ; Interfaith Coalition on Immigration; ISAIAH; Jewish Community Action; Justice Commission of the Sisters of St. Joseph of Carondelet and Consociates; Latin America

& Haiti Focus Group, St. Luke's Presbyterian Church; Legal Rights Center; Lutheran Coalition for Public Policy in Minnesota; Lutheran Social Service of Minnesota; Metropolitan Consortium of Community Developers; Mid-Minnesota Legal Assistance; Midwest Food Processors Association; Minnesota Advocates for Human Rights; Minnesota AFL-CIO; Minnesota Agri-Growth Council; Minnesota Alliance With Youth; Minnesota Business Immigration Coalition; Minnesota Catholic Conference; Minnesota Chamber of Commerce; Minnesota Fathers & Families Network; Minnesota Hispanic Bar Association; Minnesota Hispanic Chamber of Commerce; Minnesota Lodging Association; Minnesota Milk Producers Association; Minnesota Nursery & Landscape Association; Minnesota Restaurant Association; Minnesota School Social Workers Association; Minnesota Strengthening Our Lives (SOL); No More Children Left Behind; Office of Justice, Peace & Integrity of Creation, School Sisters of Notre Dame, Mankato; Project for Pride in Living; Service Employees International Union (SEIU), Local 26—Minneapolis; Service Employees International Union (SEIU), Minnesota State Council; Sisters Online; Social Concerns & Family Office, Diocese of New Ulm; Sowers Leadership Team, Guardian Angels Catholic Church; St. John Neumann Catholic Church; The Minneapolis Foundation; UFCW Local 1161—Worthington; UFCW Local 789—South St. Paul; UNITE Here, Minnesota State Council; United Cambodian Association of Minnesota; United Food and Commercial Workers (UFCW), Local 1161—Worthington; United Food and Commercial Workers (UFCW), Local 789—South St. Paul; Willmar Area Comprehensive Immigration Reform; YWCA of Minneapolis.

MINNESOTA FAITH LEADERS, ELECTED OFFICIALS & COMMUNITY ADVOCATES SUPPORTING THE HELP SEPARATED CHILDREN ACT

Rabbi Morris J. Allen, Beth Jacob Congregation; Rabbi Renee Bauer, Mayim Rabim Congregation; Rev. Ralph Baumgartner, Galilee Lutheran Church, Roseville, MN; Rev. Chris Becker, Peace Lutheran Church, Inver Grove Heights, MN; Pastor Chris Berthelsen, First Lutheran Church, St. Paul, MN; Rev. Mariann Budde, St. John's Episcopal Church, Minneapolis, MN; Pastor Sarah Campbell, Mayflower Community Congregational Church, Minnapolis, MN; Mayor Chris Coleman, City of St. Paul; Rev. Doug Donley, University Baptist Church, Minneapolis, MN; Rabbi Amy Eilberg, Jay Phillips Center for Jewish-Christian Learning; Pastor Paul Erickson, Evangelical Lutheran Church of America, St. Paul, MN; Rev. James Erlandson, Lutheran Church of the Redeemer, St. Paul, MN; Rev. G. Allen Foster, Citadel of Hope Church, Brooklyn Park, MN; Pastor Pam Fickenscher, Edina Community Lutheran Church, Edina, MN; Luz María Frías, Human Rights & Equal Economic Opportunity Dept., City of St. Paul; Pastor Dan Garnaas, Grace University Lutheran Church, Minneapolis, MN; Rev. Chad Gilbertson, Willmar, MN; Revs. Patrick & Luisa Cabello Hansel, Minneapolis Area Synod, Evangelical Lutheran Church in America, Minneapolis, MN; Rev. Richard Headen, Presbyterian Church USA, Plymouth, MN; Allan D. Henden, Lay Leader, United Church of Christ, Minneapolis, MN; Rev. Karen Hering, Unity Unitarian Church, St. Paul, MN; Rev. Anita C. Hill, St. Paul, MN; Loan T. Huynh, Attorney at Law; Bishop Craig E. Johnson, Minneapolis Area Synod, Evangelical Lutheran Church in America, Minneapolis, MN; Elder Karen Larson, St. Luke Presbyterian Church, Minnetonka, MN; Rabbi Michael Latz, Shir Tikvah Congregation; Charles & Hertha Lutz, Peace and Justice Advocates, Evangelical Lutheran Church in America, Minneapolis, MN; Miguel Lucas Lindgren, DFL Latino Caucus Treasurer, Roseville, MN; Brianna MacPhee, Executive Board, Minnesota Latino Caucus, Minneapolis, MN; Pastor Rod Maeker, Faculty (ret.), Luther Seminary, St. Paul, MN; Rev. Naomi Mahler, Paz y Esperanza Lutheran Church, Willmar, MN; Pastor Susan Maetzold Moss, Episcopal Diocese of Minnesota; Sen. Mee Moua (Dist. 67), Chair, Minnesota Senate Judiciary Committee, St. Paul, MN; Lauren Morse-Wendt, Mission and Ministry Developer, Edina, MN; Pastor Richard Mork, Evangelical Lutheran Church in America, St. Paul, MN; Rev. Jen Nagel, Salem English Lutheran, Minneapolis, MN; Rev. Karsten Nelson, Our Redeemer Lutheran Church, St. Paul, MN; Rev. Keith H. Olstad, St. Paul-Reformation Lutheran Church, St. Paul, MN; Rafael Ortega, Ramsey County Commissioner; Pastor Paul Slack, New Creation Community Church, Brooklyn Park, MN; Rev. Dr. Karen Smith Sellers, Minnesota Conference United Church of Christ; Roxanne Smith, Social Justice Dir., St. Joseph the Worker Church, Maple Grove, MN; Chief Tom Smith, St. Paul Police Department; Pastor Grant Stevensen, St. Matthew's Lutheran Church, St. Paul, MN; Rabbi Adam Stock Spilke, Mount Zion Temple; Pastor Eric Strand, Edina Community Church, Edina, MN; Rev. Dale Stuepfert, Director of Chaplaincy (ret.), Hennepin County Medical Center, Minneapolis, MN; Pastor Steve Sylvester, Our Savior's Lutheran Church, Circle Pines, MN; Linda Thompson, Lay Leader, St. Luke Presbyterian Church, Plymouth, MN; Sen. Patricia Torres Ray (District 62); Rev. Jill Tollefson, La Mision San Jose Obrero de Episcopal, Montgomery, MN; Rev. Susan Tjornehoj, Minneapolis Area Synod, Evangelical Lutheran Church in America, Minneapolis, MN; Pastor Jason Van Hunnik, Westwood Lutheran Church, St. Louis Park, MN; Pastor Mark Vinge, House of Hope Lutheran Church, New Hope, MN; Rev. David Wangaard, Minneapolis Area Synod, Evangelical Lutheran Church in America, Minneapolis, MN; Pastor Mark Wegener, Woodlake Lutheran Church, Richfield, MN; Rev. Bruce M. Westphal, Westwood Lutheran Church, St. Louis Park, MN; Rev. Jonathan Zielske, Hope Lutheran Church..

NEW JERSEY

Association for Children of New Jersey; Casa Esperanza; IRATE & First Friends; Statewide Parent Advocacy Network.

NEW MEXICO

For Families, LLC.; Lutheran Advocacy Ministry; New Mexico Children, Youth and Families Protective Services Division; New Mexico Women's Justice Project; PBJ Family Services, Inc.

NEW YORK

Coalition for Asian American Children and Families; Make the Road New York; The Osborne Association; Schuyler Center for Analysis and Advocacy.

NORTH CAROLINA

Action for Children North Carolina; The Exceptional Children's Assistance Center.

OKLAHOMA

Oklahoma Institute for Child Advocacy.

OREGON

Immigration Counseling Services (Portland, OR).

SOUTH CAROLINA

South Carolina Appleseed.

TEXAS

Catholic Charities of Dallas, Inc., Immigration & Legal Services; Center for Public Policy Priorities; Daya Inc.; Wilco Justice Alliance.

VIRGINIA

Voices for Virginia's Children.

WASHINGTON

Children's Home Society of Washington; Northwest Immigrant and Refugee Rights Project.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to add two bills for the previously announced hearing scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, June 24, 2010, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to hear testimony on the following bills: S. 3497, a bill to amend the Outer Continental Shelf Lands Act to require leases entered into under that Act to include a plan that describes the means and timeline for containment and termination of an ongoing discharge of oil, and for other purposes; and, S. 3431, a bill to improve the administration of the Minerals Management Service, and for other purposes.

Adding bills: S. 3509, a bill to amend the Energy Policy Act of 2005 to promote the research and development of technologies and best practices for the safe development and extraction of natural gas and other petroleum resources, and for other purposes; and, S. 3516, a bill to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to Abigail_Campbell@energy.senate.gov.

For further information, please contact Linda Lance at (202) 224–7556 or Abigail Campbell at (202) 224–1219.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on June 22, 2010, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on

June 22, 2010, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on June 22, 2010, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on June 22, 2010, at 9:30 a.m., to hold a hearing entitled ''Iran Policy in the Aftermath of United Nations Sanctions.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate to conduct a hearing entitled ''The ADA and Olmstead Enforcement: Ensuring Community Opportunities for Individuals with Disabilities'' on June 22, 2010. The hearing will commence at 2:30 p.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 22, 2010 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, TOXICS, AND ENVIRONMENTAL HEALTH

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Toxics, and Environmental Health of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on June 22, 2010, at 2:30 p.m. in room 406 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Pennsylvania.

EXECUTIVE SESSION

NOMINATION DISCHARGED

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Environment and Public Works Committee be discharged of the following nomination: PN1573, Rafael Moure-Eraso, to be a member of the Chemical Safety and Hazardous Investigation Board, and that the nomination then be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed en bloc to Calendar Nos. 945, 946, 947, 949, 950, and 951; that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, any statements relating to the nominations be printed in the RECORD, as if read, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

Cynthia Chavez Lamra, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2010.

JoAnn Lynn Balzer, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2012.

NATIONAL INDIAN GAMING COMMISSION

Tracie Stevens, of Washington, to be Chairman of the National Indian Gaming Commission for the term of three years.

DEPARTMENT OF JUSTICE

Pamela Cothran Marsh, of Florida, to be United States Attorney for the Northern District of Florida for the term of four years.

Peter J. Smith, of Pennsylvania, to be United States Attorney for the Middle District of Pennsylvania for the term of four years.

Kevin Anthony Carr, of Wisconsin, to be United States Marshal for the Eastern District of Wisconsin for the term of four years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR WEDNESDAY, JUNE 23, 2010

Mr. CASEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, June 23; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and that following any leader remarks, the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the Republicans controlling the first 30 minutes and the majority controlling the final 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CASEY. Mr. President, tomorrow, we expect to resume consideration of the House message on H.R. 4213, the tax extenders legislation. Rollcall votes are expected to occur throughout the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CASEY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 9:51 p.m., adjourned until Wednesday, June 23, 2010, at 9:30 a.m.

DISCHARGED NOMINATION

The Senate Committee on Environment and Public Works was discharged from further consideration of the following nomination by unanimous consent and the nomination was placed on the Executive Calendar:

*RAFAEL MOURE-ERASO, OF MASSACHUSETTS, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS.

*Nominee has committed to respond to requests to appear and testify before any duly constituted committee of the Senate.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Tuesday, June 22, 2010:

NATIONAL LABOR RELATIONS BOARD

BRIAN HAYES, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2012.

MARK GASTON PEARCE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2013.

AMTRAK BOARD OF DIRECTORS

ANTHONY R. COSCIA, OF NEW JERSEY, TO BE A DIRECTOR OF THE AMTRAK BOARD OF DIRECTORS FOR A TERM OF FIVE YEARS.

ALBERT DICLEMENTE, OF DELAWARE, TO BE A DIRECTOR OF THE AMTRAK BOARD OF DIRECTORS FOR THE REMAINDER OF THE TERM EXPIRING JULY 26, 2011.

NATIONAL TRANSPORTATION SAFETY BOARD

MARK R. ROSEKIND, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2014.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JIM R. ESQUEA, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF STATE

JUDITH ANN STEWART STOCK, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (EDUCATIONAL AND CULTURAL AFFAIRS).

DEPARTMENT OF ENERGY

PATRICIA A. HOFFMAN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ELECTRICITY DELIVERY AND ENERGY RELIABILITY).

NATIONAL COUNCIL ON DISABILITY

ARI NE'EMAN, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2012.

DEPARTMENT OF TRANSPORTATION

DAVID T. MATSUDA, OF THE DISTRICT OF COLUMBIA, TO BE ADMINISTRATOR OF THE MARITIME ADMINISTRATION.

MARINE MAMMAL COMMISSION

MICHAEL F. TILLMAN, OF CALIFORNIA, TO BE A MEMBER OF THE MARINE MAMMAL COMMISSION FOR A TERM EXPIRING MAY 13, 2011.

DARYL J. BONESS, OF MAINE, TO BE A MEMBER OF THE MARINE MAMMAL COMMISSION FOR A TERM EXPIRING MAY 13, 2010.

DARYL J. BONESS, OF MAINE, TO BE A MEMBER OF THE MARINE MAMMAL COMMISSION FOR A TERM EXPIRING MAY 13, 2013.

NATIONAL TRANSPORTATION SAFETY BOARD

EARL F. WEENER, OF OREGON, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 2010.

AMTRAK BOARD OF DIRECTORS

JEFFREY R. MORELAND, OF TEXAS, TO BE A DIRECTOR OF THE AMTRAK BOARD OF DIRECTORS FOR A TERM OF FIVE YEARS.

ENVIRONMENTAL PROTECTION AGENCY

ARTHUR ALLEN ELKINS, JR., OF MARYLAND, TO BE INSPECTOR GENERAL, ENVIRONMENTAL PROTECTION AGENCY.

PEACE CORPS

CAROLYN HESSLER RADELET, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY DIRECTOR OF THE PEACE CORPS.

OVERSEAS PRIVATE INVESTMENT CORPORATION

ELIZABETH L. LITTLEFIELD, OF THE DISTRICT OF COLUMBIA, TO BE PRESIDENT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

LANA POLLACK, OF MICHIGAN, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

DANA KATHERINE BILYEU, OF NEVADA, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 2011.

MICHAEL D. KENNEDY, OF GEORGIA, TO BE A MEMBER OF FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING SEPTEMBER 25, 2010.

MICHAEL D. KENNEDY, OF GEORGIA, TO BE A MEMBER OF FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING SEPTEMBER 25, 2014.

SPECIAL PANEL ON APPEALS

DENNIS P. WALSH, OF MARYLAND, TO BE CHAIRMAN OF THE SPECIAL PANEL ON APPEALS FOR A TERM OF SIX YEARS.

THE JUDICIARY

MILTON C. LEE, JR., OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

TODD E. EDELMAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

JUDITH ANNE SMITH, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

DEPARTMENT OF ENERGY

DONALD L. COOK, OF WASHINGTON, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS, NATIONAL NUCLEAR SECURITY ADMINISTRATION.

DEPARTMENT OF DEFENSE

SHARON E. BURKE, OF MARYLAND, TO BE DIRECTOR OF OPERATIONAL ENERGY PLANS AND PROGRAMS.

KATHERINE HAMMACK, OF ARIZONA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

MICHAEL J. MCCORD, OF VIRGINIA, TO BE PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE (COMPTROLLER).

ELIZABETH A. MCGRATH, OF VIRGINIA, TO BE DEPUTY CHIEF MANAGEMENT OFFICER OF THE DEPARTMENT OF DEFENSE.

DEPARTMENT OF ENERGY

JEFFREY A. LANE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS).

FEDERAL ENERGY REGULATORY COMMISSION

CHERYL A. LAFLEUR, OF MASSACHUSETTS, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2014.

PHILIP D. MOELLER, OF WASHINGTON, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2015.

OVERSEAS PRIVATE INVESTMENT CORPORATION

MICHAEL JAMES WARREN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2011.

NATIONAL BOARD FOR EDUCATION SCIENCES

ADAM GAMORAN, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2011.

DEBORAH LOEWENBERG BALL, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2012.

MARGARET R. MCLEOD, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2012.

BRIDGET TERRY LONG, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2012.

EXECUTIVE OFFICE OF THE PRESIDENT

DAVID K. MINETA, OF CALIFORNIA, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

SHERRY GLIED, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

SMALL BUSINESS ADMINISTRATION

MARIE COLLINS JOHNS, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

CYNTHIA CHAVEZ LAMAR, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2010.

JOANN LYNN BALZER, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2012.

NATIONAL INDIAN GAMING COMMISSION

TRACIE STEVENS, OF WASHINGTON, TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR THE TERM OF THREE YEARS.

NATIONAL TRANSPORTATION SAFETY BOARD

EARL F. WEENER, OF OREGON, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2015.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXECUTIVE OFFICE OF THE PRESIDENT

BENJAMIN B. TUCKER, OF NEW YORK, TO BE DEPUTY DIRECTOR FOR STATE, LOCAL, AND TRIBAL AFFAIRS, OFFICE OF NATIONAL DRUG CONTROL POLICY.

DEPARTMENT OF JUSTICE

JOHN H. LAUB, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF JUSTICE.

JAMES P. LYNCH, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE BUREAU OF JUSTICE STATISTICS.

DEPARTMENT OF EDUCATION

EDUARDO M. OCHOA, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

DEPARTMENT OF LABOR

JAMES L. TAYLOR, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF LABOR.

NATIONAL MUSEUM AND LIBRARY SERVICES BOARD

ROBERT WEDGEWORTH, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2013.

CARLA D. HAYDEN, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2014.

JOHN COPPOLA, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2013.

WINSTON TABB, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2013.

LAWRENCE J. PIJEAUX, JR., OF ALABAMA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2014.

STATE JUSTICE INSTITUTE

DANIEL J. BECKER, OF UTAH, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2010.

JAMES R. HANNAH, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2010.

GAYLE A. NACHTIGAL, OF OREGON, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2012.

JOHN B. NALBANDIAN, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2010.

MARSHA J. RABITEAU, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2010.

HERNÁN D. VERA, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2012.

DEPARTMENT OF JUSTICE

THOMAS EDWARD DELAHANTY II, OF MAINE, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MAINE FOR THE TERM OF FOUR YEARS.

WENDY J. OLSON, OF IDAHO, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF IDAHO FOR THE TERM OF FOUR YEARS.

JAMES A. LEWIS, OF ILLINOIS, TO BE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF ILLINOIS FOR THE TERM OF FOUR YEARS.

DONALD J. CAZAYOUX, JR., OF LOUISIANA, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS.

HENRY LEE WHITEHORN, SR., OF LOUISIANA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS.

KEVIN CHARLES HARRISON, OF LOUISIANA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS.

CHARLES GILLEN DUNNE, OF NEW YORK, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

PAMELA COTHRAN MARSH, OF FLORIDA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS.

PETER J. SMITH, OF PENNSYLVANIA, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS.

KEVIN ANTHONY CARR, OF WISCONSIN, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF WISCONSIN FOR THE TERM OF FOUR YEARS.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING WITH DAVID A. SCORE AND ENDING WITH DEMIAN A. BAILEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 8, 2010.